

**SOUTHCENTRAL ALASKA FEDERAL  
SUBSISTENCE REGIONAL ADVISORY COUNCIL  
PUBLIC HEARING**

Cook Inlet Aquaculture Building  
Kenai, Alaska

November 13, 1998  
6:00 o'clock p.m.

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P R O C E E D I N G S

1  
2 //

(On record)

4 //

5 MR. JOHN: Good evening ladies and gentlemen. My name  
6 is Fred John, Jr., and I'm the vice chair of the Southcentral  
7 Alaska Subsistence Regional Advisory Council. On behalf of the  
8 Regional Council I welcome you to this public hearing. There  
9 are two other Regional Council members here, Clare Swan and Ben  
10 Romig, who both reside on the Kenai Peninsula. I will ask  
11 Helga, the coordinator to introduce Staff and Court Reporter.  
12 //

13 MS. EAKON: Thank you, Fred. My name is Helga Eakon,  
14 Coordinator of the Southcentral Regional Council. To my right  
15 is Bill Knauer, our Hearing Officer, to my left is Rachel  
16 Mason, Staff anthropologist. There's Tom Boyd, who heads the  
17 Federal Subsistence Management Office over here. Bob Gerhardt,  
18 National Park Service. Cal Kasipik, Forest Service. Jerry  
19 Berg, public involvement specialist at the information table.  
20 Mark Chase, Deputy Manager of the Kenai National Wildlife  
21 Refuge. And our Court Reporter tonight is Tina Hile.  
22 //

23 MR. JOHN: Thank you, Helga. Tonight we are asking for  
24 public comment on a request for a change in the 1991  
25 rural/nonrural determination of the Federal Subsistence Board  
26 for the Kenai Peninsula. The Kenaitze Indian Tribe has asked  
27 the Board to reconsider its determination and find that all  
28 Kenai Peninsula communities should be rural for the purpose of  
29 a Federal subsistence priority.  
30 //

31 The Regional Council has the authority to make  
32 recommendation to the Board on any subsistence matter relating  
33 to subsistence resources and uses on Federal public land. The  
34 Kenaitze Indian Tribe made the request through the Regional  
35 Council at its winter meeting in Glennallen last year. The  
36 Board asked the Regional Council to get more public  
37 involvement. A copy of the letter from the Board is on the  
38 information table. The Regional Council has received some  
39 written public comments, they are in the reference notebook on  
40 the information table. The comment period will be open until  
41 December 10th. We have forms available for those who may wish  
42 to make written comments rather than testify during the  
43 meeting. Please note that the public hearing format is laid  
44 out in writing and copies are available on the sign-in table.  
45 Everyone should sign-in so that we have an accurate record of  
46 this public hearing. Anyone wishing to testify should fill out  
47 the form at the sign-in table. We want to make sure that we  
48 have a record of your name and address accurately.  
49 //

50 The Federal subsistence regulation provides that the

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1 Federal Subsistence Board review rural determinations on a 10  
2 year cycle beginning with the publication of the year 2000  
3 census and out of cycle and special circumstances. The Board  
4 has not defined what constitutes special circumstances. That  
5 is one of the things the Regional Council wants to know from  
6 the public. Are there special circumstances that the Regional  
7 Council should consider when it makes its recommendation to the  
8 Board? Specifically, the Regional Council will consider all  
9 public comments, written and oral testimony, when it decides  
10 whether or not it recommends that the Board take action on the  
11 Kenaitze Tribe request.

12 //

13 I will now turn the mic over to Rachel Mason who will  
14 provide a history of the Federal Subsistence rural or nonrural  
15 determinations. After her presentation, Rachel will give the  
16 floor to Bill Knauer, our Hearing Officer, who will explain the  
17 process of rural/nonrural determination. After that we will go  
18 off record and have a question and answer session. After that  
19 we will come back on record to receive public testimony. Go  
20 ahead, Rachel.

21 //

22 MS. MASON: Thank you, Fred. Good evening. As Fred  
23 told you, I'm going to give a little bit of history on the  
24 rural/nonrural issue on the Kenai Peninsula within the Federal  
25 Subsistence Program.

26 //

27 The 1989 Kenaitze decision concluded that rural needed  
28 to be redefined in State statute. The State defined a rural  
29 community as one where non-commercial, customary and  
30 traditional use of fish and game for personal or family  
31 consumption is a principal characteristic of the economy.  
32 ANILCA does not explicitly define rural but the Kenaitze  
33 decision interpreted Congress' intent in ANILCA to say that the  
34 term rural includes a large class of subsistence users, where  
35 customary and traditional use determinations would narrow the  
36 field of beneficiaries based on uses.

37 //

38 Later in 1989, the McDowell Decision and subsequent  
39 Federal takeover of subsistence management preempted any action  
40 by the State regarding its definition of rural.

41 //

42 The Federal Subsistence Program began in July 1990 and  
43 the program's regulations outlined the process of making rural  
44 determinations, taking the Kenaitze ruling into consideration.

45 //

46 Next there was a series of public hearings and research  
47 on the rural determinations in various areas, including the  
48 Kenai Peninsula.

49 //

50 The rural determinations were made using social,

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1 economic, and demographic criteria. The first task was to  
2 aggregate the communities that should be considered as a single  
3 unit, on the basis of commuting to work, having a common school  
4 district, and regular shopping trips. Next the communities  
5 were separated by their population. And those communities with  
6 fewer than 2,500 people were presumed to be rural; communities  
7 with a population between 2,500 and 7,000 could be either rural  
8 or nonrural; and those with 7,000 or more people were presumed  
9 nonrural. For those communities that fell into the middle  
10 category further criteria were used to evaluate their status,  
11 including the economy, use of fish and wildlife, transportation  
12 links, community infrastructure, and the level of education  
13 that was available in a community.  
14 //

15 The Federal Subsistence Board made the rural  
16 determinations in December 17, 1990. And on the Kenai  
17 Peninsula, according to that decision, the rural communities  
18 were Ninilchik, Seldovia, Port Graham and Nanwalek in Unit 15,  
19 and Hope and Cooper Landing in Unit 7. And as Fred told you,  
20 the plan was for all of those determinations to be reviewed and  
21 reevaluated after the census of the year 2000 unless there were  
22 special circumstances warranting an out-of-cycle review.  
23 //

24 While the Federal Board initially adopted all the  
25 State's c&t use determinations, they formed a plan to go around  
26 the state doing c&t determinations region by region. The Kenai  
27 Peninsula was identified as the first region for consideration  
28 of c&t use determinations for large land mammals.  
29 //

30 In the summer of 1995, eight public hearings were held  
31 on the Kenai Peninsula to gather public testimony on customary  
32 and traditional determinations. Although the rural  
33 determinations were not the focus of those hearings, many of  
34 those who testified indicated their dissatisfaction with the  
35 current rural determinations used in the Federal program.  
36 //

37 In September 1995, the Southcentral Regional Council  
38 met in Anchor Point and passed a motion recommending that the  
39 entire Kenai Peninsula be considered rural.  
40 //

41 When the Federal Subsistence Board met to discuss the  
42 recommendation, it decided that the most appropriate course of  
43 action was for the Regional Council to hold public hearings on  
44 the Kenai Peninsula to allow for public comment on the  
45 proposal. And at the next Regional Council meeting, a motion  
46 to hold the hearings failed and no meetings were held.  
47 //

48 So that brings us up to the more recent 1998 request  
49 from the Kenaitze Tribe, which again asks that the entire Kenai  
50 Peninsula be made rural. The effect of this request, if

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1 granted, would be that the Homer/Kenai/Soldotna and Seward  
2 areas, which are currently nonrural would become rural.  
3 //

4 Now Bill Knauer will bring you up to date on the  
5 Kenaitze Tribe's proposal.  
6 //

7 HEARING OFFICER KNAUER: Good evening. As Fred told  
8 you earlier, Helga, Rachel and I are here to help the  
9 Southcentral Regional Council conduct these public meetings and  
10 answer questions about the Federal Subsistence Management  
11 Program and the rural determination process.  
12 //

13 You just heard Rachel tell you about how parts of the  
14 Kenai Peninsula came to be designated nonrural back in 1990.  
15 Now, I'm going to explain the process as it would go forward  
16 from here.  
17 //

18 In an August 1998 letter, the Board replied to the  
19 Regional Council regarding the Kenaitze Tribe's present rural  
20 recommendation for which we're holding hearings. The Board  
21 believes that thoughtful Regional Council deliberation and a  
22 well-founded recommendation requires fuller public input and a  
23 clear rationale describing the special circumstances that  
24 warrant consideration outside of the standard ten-year cycle.  
25 //

26 Therefore, the Regional Council is conducting this set  
27 of three public hearings to collect information on any special  
28 circumstances that would warrant Board consideration outside of  
29 the standard cycle and to receive public comments regarding the  
30 rural/nonrural nature of the Kenai Peninsula communities. This  
31 is the third public meeting in this series. The first was held  
32 Monday night in Seward. The second, last night in Homer. And  
33 the third tonight.  
34 //

35 After they receive your comments, either in one of  
36 these meetings, by mail or electronically, the Regional Council  
37 will consider all comments and viewpoints and come to a  
38 decision during their March meeting in Anchorage. Following  
39 that they will present their recommendation to the Federal  
40 Subsistence Board in May. This recommendation could conclude  
41 that there are special circumstances that warrant review now or  
42 it could conclude that the review should wait until the normal  
43 cycle, which would be after the receipt of the year 2000 census  
44 data. If the latter is the case, the Board would likely take  
45 no further action at this present time. However, should the  
46 recommendation to the Board be for an out-of-cycle review based  
47 on special circumstances and if the Board agrees that there  
48 are, in fact, special circumstances that warrant review out-of-  
49 cycle now, they will likely conduct a review of first, the  
50 aggregation of the communities in the nonrural areas and

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1 secondly, their characteristics. Following that review, if the  
2 Board believes that the review and public comments demonstrate  
3 that the nonrural designation is inappropriate, they will  
4 publish a proposed rule in the Federal Register, open a public  
5 comment period, and hold additional hearings. This is all part  
6 of the Administrative Procedures Act process that must be  
7 followed for the implementation of rulemaking. Following that  
8 would be a publication of a final rule. This process could  
9 take almost to the year 2001.

10 //

11 At this point what I would like to do is go off record  
12 and provide an opportunity for you to ask questions of the  
13 Staff. This portion of this meeting is not for testimony but  
14 rather an opportunity for you to ask questions to clarify areas  
15 that might be confusing to you or areas that you feel we might  
16 not have covered thoroughly. When we've finished with the  
17 questions, we'll go back on record and ask for your testimony.

18 //

19 (Off record - 6:23 p.m.)

20 (On record - 7:15 p.m.)

21 //

22 HEARING OFFICER KNAUER: Please identify yourself and  
23 whether or not you represent any organization. Please, one,  
24 let the Regional Council know if you believe that there are  
25 special circumstances that warrant consideration out-of-cycle  
26 and if so, what they are. And two, whether or not you believe  
27 there are special characteristics of these communities that  
28 warrant their changing from a nonrural to a rural status.

29 //

30 Also, in order that everyone gets to speak and the  
31 views of everyone are respected, and individuals are not  
32 intimidated or do not feel intimidated, I would request that  
33 the audience refrain from any show of agreement or disagreement  
34 with a speaker's remarks. In other words, please no applause  
35 or other extemporaneous comments during or after a speaker's  
36 remarks.

37 //

38 And with that, the first individual that has indicated  
39 a desire to speak is Mr. Pepper Johansen. Excuse me, Ms.  
40 Pepper Johansen.

41 //

42 MS. JOHANSEN: First of all, I want to apologize to  
43 everybody in the Tribe, my friends and family, I'm speaking  
44 totally for myself and I'm speaking my own heart and my own  
45 feelings. This is really difficult for me.

46 //

47 My name is Pepper Johansen. I am a member of the  
48 Kenaitze Indian Tribe. I spent my childhood living in the  
49 heart of old town Kenai. I am currently living in Nikiski on  
50 my father's Native allotment. I live off of the Borough road

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1 systems and sometimes conditions are so bad that I have to walk  
2 in for weeks or months at a time to cabin. I live in a 12 x 16  
3 cabin with no electricity or running water. I make birch bark  
4 jewelries and baskets for income. I actually live a lifestyle  
5 that is probably closer to a traditional subsistence lifestyle  
6 than any other Kenaitze these days, with the exception of my  
7 cousin who lives nearby me. However, I am also a fourth  
8 generation commercial fisherman. This is what has provided for  
9 me as a child and an adult and I am greatly concerned that this  
10 historical source of income for Cook Inlet is in jeopardy.  
11 //

12 As Mr. Boyd said tonight in response to my question  
13 during the question and answer period there is "in theory" at  
14 least a possibility of downriver closures if it is determined  
15 that upriver subsistence needs were not being met and there was  
16 a possibility of interception of stocks. So because this would  
17 add one more issue to an already difficult situation I am quite  
18 concerned. The persistent allocation conflicts and the recent  
19 downturn in stocks and prices is threatening to eliminate this  
20 very important local industry which has been a major source of  
21 income for both Native and non-Native alike. At this crucial  
22 time of uncertainty the last thing we need is another source of  
23 potential conflict. After the dismal fishing season this last  
24 summer, we saw one of the oldest and largest processors pull  
25 out of Cook Inlet. My father had sold to them when they were  
26 known as Libby, McNeal & Libby, and I had sold to them as  
27 Columbia Ward's. After all of these years they had decided  
28 that the decreased runs and the unpredictable allocation  
29 situation made Cook Inlet an unfavorable place in which to do  
30 business. How many more processors might make similar  
31 decisions if there is yet another group demanding priority. It  
32 does not make good business sense to invest in an area where  
33 they do not know whether or not they will shut down during the  
34 season. If this were a time when runs were strong then it's  
35 possible that subsistence priority might not have any effect on  
36 the commercial or sport fishery, upon which much of the local  
37 tourism industry is based. However, such is not the case.  
38 There is a distinct possibility that both commercial fishing  
39 and sport fish based tourism might be effected and this could  
40 have potentially devastating repercussions on the economy of  
41 the Kenai Peninsula. The decreased buying power of the people  
42 involved in these industries could negatively effect most of  
43 the other businesses in the area. Furthermore, the loss of  
44 these industries could seriously effect Borough and city  
45 services through the loss of tax revenue and tide land leases  
46 at the mouth of the Kenai.  
47 //

48 While we are not as urbanized as Anchorage, we still  
49 must recognize the fact that this area is now dependent upon a  
50 cash economy regardless of what its past might have been. In



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1 fact, since we are not as economically diverse as larger urban  
2 areas, we are even more dependent on these major industries  
3 because there would be no place for the displaced workers to  
4 go, locally, to find alternate employment. There would be no  
5 way that having more moose or fish could ever make up for the  
6 loss to the local economy. What it would matter if we each had  
7 a half a dozen freezers full of fish and game if we didn't have  
8 enough money to pay our electrical bills or enough to pay our  
9 rent or mortgage, to have a house to keep those freezers in?  
10 //

11 While we all may long for the simplicity of the good  
12 old days, we must acknowledge that whether we like it or not,  
13 things have irrevocably changed on the Kenai Peninsula. And  
14 that just changing the legal definition of this area to rural  
15 will not effect the true nature of the present situation.  
16 //

17 HEARING OFFICER KNAUER: Thank you, Ms. Pepper. The  
18 next person is Liisia Shaw.  
19 //

20 MS. SHAW: My name is Liisia Johansen Shaw. I was born  
21 in Bethel, Alaska in 1949 and I have spent most of my life on  
22 the Kenai Peninsula. My father was Alexander Johansen, a  
23 Dena'ina Athabascan man who was born in Kenai, Alaska in 1919  
24 and lived a traditional subsistence life. My father taught me  
25 and my brothers and sisters how to survive from the land and  
26 how to care for the land and its resources. We did not waste  
27 anything and we were taught respect for this land. This land  
28 was like a religion for my father. He said that if you take  
29 care of the land and resources there would always be plenty for  
30 everyone.  
31 //

32 Different seasons when I was growing up meant different  
33 kinds of subsistence. We were always putting up for the  
34 winter. Spring meant hooligan fishing in the Kenai River,  
35 digging clams at Clam Gulch and king salmon were running. We  
36 shared with our family members and smoked king in the early  
37 spring. Hooligan and clams were put up in the freezer. The  
38 garden was planted with potatoes, lettuce, cabbage, radishes,  
39 spinach and rutabagas. We took care of our garden all spring  
40 and summer and harvested the vegetables in the fall for the  
41 winter months. In the summer months, the reds were running and  
42 we canned, smoked, salted and froze fish for days. This was  
43 also for the winter months. In the fall we fished silvers and  
44 our whole family picked berries. My mother and I made jelly,  
45 syrup and cranberry catsup by the case. While the whole family  
46 was picking berries, my brother and father were grouse and  
47 moose hunting. In the early days we always got our moose and  
48 we shared fish meat with my grandmother. My whole family was  
49 busy butchering moose and wrapping and freezing it for the  
50 winter. In the winter months here in Kenai we fished for trout

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1 and hunted rabbits. We trapped beaver, wolverine and rabbits  
2 for their furs and the meat.

3 //

4 I still practice a subsistence lifestyle and I have  
5 taught my children everything my father and aunts and uncles  
6 have taught me. It is harder now because Fish and Game  
7 regulations limit us to certain areas and there are many  
8 restrictions now on the Kenai River. My family fishes the  
9 Kenaitze Indian Tribe's educational net and we still pick  
10 berries in the fall. But because of the urban designation  
11 imposed on the Kenai Peninsula living our cultural lifestyle  
12 has become almost impossible. My family fully supports the  
13 Kenai Peninsula being designated a rural area.

14 //

15 Thank you.

16 //

17 HEARING OFFICER KNAUER: Thank you. Mr. Robert  
18 Wiseman.

19 //

20 MR. WISEMAN: My name is Bob Wiseman. And first of  
21 all, I have a real problem with one or two bureaucrat's  
22 definition of custom and traditional.

23 //

24 I grew up with a fishing rod in one hand and a gun in  
25 the other. The gun wasn't for protection, as it might be  
26 today. I was 13 years old before we had inside plumbing. Our  
27 diet was mostly what we put away from the garden and venison.  
28 Can't eat venison today. My grandfather came to Northern Idaho  
29 in a covered wagon. My grandmother was born on the Camas  
30 Prairie in Northern Idaho just eight years after the Indian War  
31 ended and never lived more than 50 miles from there her whole  
32 92 years. I do not know of a state in the Lower 48 that does  
33 not enjoy a larger and more diversified game population today  
34 than they had just had 20 years ago. We in Alaska are not in  
35 that same category. I ask you why? Could what is happening  
36 here today be part of the reason?

37 //

38 We're about to move into the 21st century. As I came  
39 from a lifestyle in the past to live a lifestyle of 1998, we  
40 should also keep a line of thinking on that same venue. We  
41 cannot live in the past or let the past govern us today except  
42 to learn from it and let it prepare us to go into the 21st  
43 century.

44 //

45 In conclusion, I believe that to classify the Kenai  
46 Peninsula as a rural area would send the message that we have  
47 not learned anything from the past or the lessons from the  
48 Lower 48 states. We, on a daily basis, making it more  
49 difficult for those who are charged with the management of the  
50 resource on a sound basis, but are trying to resurrect

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1 something from the past, or cling to something because we do  
2 not have the stamina or the resource to move forward. Let's  
3 move forward and do it together.

4 //

5 We may look back with nostalgia, but lets be real,  
6 outhouses, large gardens, one room schools, long walking  
7 distances, cutting and stacking firewood and getting up in the  
8 middle of the night to stoke the stoves with it wasn't all that  
9 great. Let's not move backward. Let's bond as Alaskans, move  
10 into the 21st century, not divide in any way, particularly in  
11 the way that we use our great fish and game resource.

12 //

13 Thank you all very much.

14 //

15 HEARING OFFICER KNAUER: Thank you, Mr. Wiseman. Mr.  
16 James Showalter.

17 //

18 MR. SHOWALTER: I'm James Showalter. I'm chairman of  
19 the Kenaitze Indian Tribe. And yes, I'd like to take this  
20 opportunity to take this out-of-cycle and on special  
21 circumstances. I've got a resolution here drafted and also  
22 amended I'd like to read into the record, it's from the  
23 Kenaitze Indian Tribe, IRA. Resolution No. 98-38. The  
24 resolution is the Tribal resolution is of strong support of the  
25 Kenai Peninsula Borough being designated as rural area for  
26 purposes of subsistence.

27 //

28 Whereas; the Kenaitze Indian Tribe, IRA is a Federally  
29 recognized government tribe reorganized under the statute of  
30 the Indian Reorganization Act of 1934 as amended for Alaska in  
31 1936 and in accordance with the preamble and the tribal  
32 constitution is the responsibility of the social welfare of its  
33 1,009 tribal members and 2,767 Alaska Native residents of the  
34 Upper and Central Kenai Peninsula, Alaska.

35 //

36 And whereas; the Kenaitze Indian Tribe, IRA has  
37 established long-term goals which relate to collective,  
38 individual, social, economical, and governmental concerns of  
39 its people.

40 //

41 And whereas, the Kenaitze Indian Tribe, IRA, the  
42 natural stuarsts of the land and its resources since time and  
43 memorial as respected and dependent upon the natural resources  
44 along the Cook Inlet Basin and its tributaries of our inherited  
45 cultural way of live.

46 //

47 And whereas, the Kenai Peninsula is a rural area by the  
48 reasons defined and the terms which is demonstrated by the  
49 following factors. Among others, one, seasonal employment  
50 consists of partially commercial fishing, construction and the

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1 lack of job opportunities thus creating a high rate of  
2 unemployment. Two, many sparsely settled communities on the  
3 Kenai Peninsula are isolated from each other and many people of  
4 these communities have no close neighbors. Three, many  
5 citizens living on the Kenai Peninsula have depended on a  
6 subsistence way of life for generations surviving on an  
7 abundant wild renewable resources for food for their families.  
8 Four, communities in the Kenai Peninsula Borough, aside from  
9 the cities of Kenai and Soldotna, are not connected by sewer  
10 and water systems and may rely on well and septic systems.  
11 Five, citizens of the Kenai Peninsula Borough rely on a medical  
12 facilities located in Anchorage and the Lower 48 for most  
13 specialized medical care. Six, there is no public  
14 transportation system within the Kenai Peninsula Borough, thus  
15 making it difficult for the elderly and many low income  
16 families to commute to shopping areas, medical facilities and  
17 effect. Seven, many Federal and State funding agencies, such  
18 as Alaska Village Initiatives, the U.S. Department of  
19 Agriculture consider the Kenai Peninsula a rural area, thus  
20 providing fundings for projects such as agriculture, economic  
21 development, training assistance and other projects to improve  
22 the well-being of rural Alaska communities.  
23 //

24 And whereas, in the conviction of executive committee,  
25 Tribal Council of the Kenaitze Indian Tribe, IRA, and fostering  
26 the traditional subsistence lifestyle for its members and all  
27 Alaskan Natives residing within the Kenai Peninsula Borough is  
28 the primary means of promoting and protecting the vital  
29 heritage of the Dena'ina Athabascan, who's ancestors settled  
30 along the shores of the Cook Inlet Basin as tributaries.  
31 //

32 And whereas, special circumstances exist which justify  
33 reconsideration of the Board rural/nonrural determination as  
34 follows:  
35 //

36 One, the Board's initial rural/nonrural determination  
37 with respect to the Kenai Peninsula was made without any input  
38 from the Regional Advisory Council which had not yet been  
39 established. The Board's initial determination was based  
40 primarily on the State nonrural determination of the Kenai  
41 Peninsula which the Ninth Circuit Court of Appeals flatly  
42 rejected in the Kenaitze Tribe versus Alaska on the grounds  
43 that it violated a definition of rural in ANILCA. A Board  
44 determination in violation applicable mandatory law and in  
45 special circumstances justifying reconsideration at this time.  
46 //

47 Two, during the 1995 public hearing on customary and  
48 traditional use, determination for the Kenai Peninsula  
49 conducted by the Board as well as the Regional Advisory  
50 Council, a majority of the local residents who testified agreed

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1 that the Board's 1991 rural/nonrural determination was  
2 decisive, erroneous as well as reconsidered. As the transcript  
3 of the 1995 Kenai hearing, the testimony was taken during these  
4 public hearings in addition to provide new and relevant  
5 information also indicated that errors were made in the  
6 analysis that effected the communities aggregated.

7 //

8 Three, the demographics and other information relating  
9 to the Kenai Peninsula contained in the report and institute of  
10 social and economical research was not available at the time  
11 the Board made it's 1991 rural/nonrural determination. The  
12 ISER reports provides compelling, but not conclusive evidence  
13 that the Board's 1991 nonrural determination with respect to  
14 the Kenai Peninsula violates the Board's own criteria for  
15 rural/nonrural determination as well as a Ninth Circuit Court  
16 of Appeals, the Kenaitze decision.

17 //

18 Four, the Council's recommendation to the Board is and  
19 for itself continues a special circumstances justifying  
20 reconsideration for the Board's nonrural determination. The  
21 Board is obligated to defer to the Council's recommendation,  
22 except in limited circumstances described in Section .805(C) to  
23 hear justification exists for rejecting the Regional Advisory's  
24 recommendation.

25 //

26 Now, therefore be it resolved, that the executive  
27 committee Tribal Council of the Kenaitze Indian Tribe, IRA, the  
28 Kenaitze Indian Tribe fully supports and endorses Title VIII  
29 of ANCSA, which grants rural preference to the citizens of the  
30 Kenai Peninsula Borough thereby making them eligible to  
31 participate their indigenous, customary and traditional  
32 subsistence way of life.

33 //

34 Thank you.

35 //

36 HEARING OFFICER KNAUER: Thank you, Mr. Showalter. The  
37 next person, Emil Dolchok.

38 //

39 MR. DOLCHOK: My name is Emil Dolchok. Since 1996 when  
40 we were barred from personal use fishing with gillnet in the  
41 months of May, June and July, our traditional and cultural way  
42 of life has been taken away from us. Just because the Kenai  
43 Peninsula is classed as urban, we were not allowed to set a net  
44 until the end of June. By then the early king salmon are gone  
45 and the late run king salmon haven't started running yet. We  
46 are allowed to fish maybe four or five days for those scrawny  
47 little Kasilof red salmon with a limit of 25 plus 10 for each  
48 family member. My quota is 35 reds, barely filling half my  
49 smokehouse.

50 //

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1           As for the economy, we're year-round residents are here  
2 to support them for the full 12 months, the tourist and the  
3 sport fishermen who come to the Kenai Peninsula only account  
4 for about three months of support to the local economy, maybe  
5 four at the most. I have been in the commercial fishing  
6 business for 34 years. I have setnetted and built and tended  
7 salmon fish traps and also drifted with gillnets in Cook Inlet.  
8 In those days, the salmon season started the 25th of May until  
9 the canneries stopped operating mid-August. And because of the  
10 influx of fishermen and the Cook Inlet restrictions were being  
11 imposed on commercial salmon fishermen, until now, the  
12 commercial fishing season doesn't start until the month of  
13 July, but the sport fishermen can start fishing from the first  
14 of April until winter sets in.

15 //

16           And I believe that if we prevail that we should not go  
17 back to prior to 1996 because those regulations will be taken  
18 away from us again like they have been. Our solution would be  
19 to go for subsistence lifestyle where we are assured that we  
20 can fish every year for us and our families.

21 //

22           Thank you.

23 //

24           HEARING OFFICER KNAUER: Thank you, sir.

25 //

26           MS. LAGESON: Hi, my name is Doris Lageson. I am a  
27 member of the Kenaitze Indian Tribe.

28 //

29           Subsistence is important to me because it is a big part  
30 of my life. My summers are filled with fishing, putting up  
31 fish and passing on what I know. At this point in my life my  
32 boys, they know how to gillnet, they can tie a net on with  
33 bridles, that is what was handed down and taught to me by my  
34 elders. When I fish, giving away the fish to tribal members  
35 who need it is as important as putting away for myself and  
36 family. This has been the way my life has been for as long as  
37 I could remember. I know how to skin, gut and quarter up a  
38 moose because my dad taught me when I was 10 years old. When  
39 my husband got his moose this last fall, our daughter was with  
40 him, I asked her if she was scared, she said, no, she felt  
41 proud of her dad. She helped with the moose and she learned.  
42 I can hardly wait until spring time so I can be on the beach to  
43 fish and have my family and friends all around me sharing  
44 stories of helping hands.

45 //

46           I'm in favor for the rural decision so that I can  
47 continue to teach my children the ways of life that I have been  
48 taught. And if its gone nonrural, then I'm going to be  
49 subjected to being put on a beach with 500 other people for  
50 three days and try to struggle for a few fish.

00015

1 Thank you.

2 //

3 HEARING OFFICER KNAUER: Thank you. Ms. Rita Smagge.

4 I apologize again for the pronunciation on some of the names.

5 //

6 MS. SMAGGE: Good evening. My name is Rita Smagge. I  
7 am the executive director for the Kenaitze Indian Tribe. And  
8 I'm also a tribal member. I was asked by Ken Jones, president  
9 and CEO of Copper River Native Association to read their letter  
10 of support, and I would like to make my own statement, too.

11 //

12 Thank you.

13 //

14 Copper River Native Association, Inc., would to go on  
15 record to support the Kenaitze Tribe in declaring the entire  
16 Kenai Peninsula to be a rural place. The entire Kenai  
17 Peninsula should have been determined a rural place in 1990  
18 when the Federal Subsistence Management took over management on  
19 Federal public lands. The Federal Subsistence Board and  
20 Southcentral Regional Advisory Council need to take action now  
21 rather than wait until the year 2000. The Ninth Circuit Court  
22 of Appeals made a decision in 1988 to determine that the Kenai  
23 area be a rural place. This court decision ought to be  
24 considered a special circumstance so that the Federal Board can  
25 make a decision now to determine the entire Kenai Peninsula to  
26 be a rural place rather than wait until the year 2000. We wish  
27 the Kenaitze's success in their efforts to make the entire  
28 Kenai Peninsula a rural place.

29 //

30 Thank you.

31 //

32 As I stated, my name is Rita Smagge. I am the  
33 executive director for the Kenaitze Tribe and I also am a  
34 tribal member. My father, Victor Sugera and my mother -- my  
35 mother was Modrona Darien (ph), my father came from the  
36 Philippines and my mother was born and raised in the village of  
37 Kenai. She was Dena'ina Athabascan and Russian. When I was  
38 five my mother passed away from tuberculosis and my father was  
39 left to raise nine children by himself.

40 //

41 Although we would not be considered rich by today's  
42 standards, there was always food on the table because our  
43 father provided for our basic needs in the traditional and  
44 customary practices of the village by hunting, fishing and  
45 gathering. Unknowingly my father was fostering the inherent  
46 rights that continue to sustain the Kenaitze Indian Tribe  
47 today. Rights that you cannot classify or designate rural or  
48 nonrural.

49 //

50 I, therefore, fully support the Kenai Peninsula being

00016

1 designated a rural area.

2 //

3 Thank you.

4 //

5 HEARING OFFICER KNAUER: Thank you. Ms. Nina Demidoff.

6 //

7 MS. DEMIDOFF: Hello, my name is Nina Demidoff. I am  
8 for the rural designation. As I said my name is Nina Demidoff.  
9 I am Alutiq from the south end of Kodiak. I moved here to the  
10 Kenai Peninsula area for about 23 years. I have been married  
11 for 18. My husband is from this area. He is Dena'ina  
12 Athabascan, so are my children. They are tribal members of the  
13 Kenaitze Indian Tribe, IRA.

14 //

15 We live out in Sterling area and we have been out there  
16 for 18 years. We own our own home and we have our own septic  
17 system, our well water, our heating system is by oil. I have  
18 to get up early in the morning, between 5:30 -- about 5:00 and  
19 5:30 every morning to get my son and my daughter up for school  
20 to get them ready for 6:30 to be on the bus for almost 45  
21 minutes to an hour to get to Soldotna. For myself and my  
22 husband, we travel between 60 and 70 miles roundtrip every day  
23 to go to work to Kenai. And for my area, it takes me two miles  
24 on dirt road just before I get to the main highway. In our  
25 surrounding area where I live in the Sterling area we have  
26 moose, caribou, rabbits, lynx, black bear, brown bear, we have  
27 all this wildlife in our area.

28 //

29 And like I was saying, I was in Sterling, we have one  
30 store, grocery store, three gas stations, one post office and  
31 it takes me at least about between a half an hour to 45 minutes  
32 just to get to a main store in Soldotna. My husband, he hunts  
33 moose every year and my children are of age to go out and moose  
34 hunt and rabbit. And we help support traditionally for our  
35 children to gather these stuff, and we do berries in the fall  
36 time and we help -- we do this, we put the fish away. We make  
37 smoked fish and whatever. And we hand it out to our families  
38 that are in need that are unable to go out there and do that.  
39 We do this for our babies all the way up to the elders.

40 //

41 So I just thought I'd let you guys know that I am for  
42 the rural area.

43 //

44 HEARING OFFICER KNAUER: Thank you. Ms. Agnes Brown.

45 //

46 MS. BROWN: Thank you for this opportunity to address  
47 you. My name is B. Agnes Brown. I own a limited entry permit  
48 and manage setnets on the west side of Cook Inlet.

49 //

50 My grandmother and mother were born in Kenai. I reside



00017

1 in Anchorage Alaska. I speak in favor of the Kenaitze request  
2 for rural designation. In 1978 the state of Alaska recognized  
3 the subsistence priority in anticipation of the enactment of  
4 ANILCA, which required that subsistence be given a priority  
5 over sport and commercial uses in time of scarcity. In light  
6 of this seasons failure, could this be a time of scarcity?  
7 //

8 Rural Alaska residency was not a requirement. The law  
9 was applied generally to customarily and traditional uses in  
10 Alaska. With the dramatic increase of the salmon take, the  
11 Board of Fish restricted subsistence fishing in contravention  
12 of the '78 statutes. To comply with ANILCA, the Board of Fish  
13 and Game adopted the law that tied subsistence to customary and  
14 traditional. The state was then vested with management over  
15 all State and Federal lands. This subsistence priority remains  
16 unpopular with urban residents. Rural became the key element  
17 of subsistence regulation. The term is defined with respect to  
18 whether customary and traditional are principal characteristics  
19 of the economy of an area.  
20 //

21 The opinions of the cases of Bobby and Katie John  
22 indicate that subsistence hunting and fishing regulations must  
23 accommodate customary and traditional take of fish and game  
24 measured by reference to specific villages. This basic  
25 principal is further borne out in the cases of caribou hunting  
26 by Yupik Eskimos and bear hunting by Inupiat Eskimos. It is  
27 clear that there are two kinds of subsistence practices,  
28 hunting and fishing. Seasons reflect the Western concept of  
29 fair chase. Means of taking resources come from the sad  
30 experience of wanton and waste and decimation of species. The  
31 1986 statute that focused on rural as economic activity of an  
32 area made subsistence an individual or a minimalist activity.  
33 For the non-Native subsistence person it is based on money. On  
34 the other hand, this same statute limited the subsistence  
35 priority to those populations for which there were customary  
36 and traditional uses or level of take.  
37 //

38 Secondly, subsistence is a tribal activity. For Native  
39 people fish and animals are taken as needed on an available  
40 basis. A significant characteristic is that resources be  
41 available locally. Harvests are shared. Sometimes one or two  
42 people will hunt and fish for a whole village, preserving or  
43 putting up this harvest is done communally. Since Congress'  
44 intent was to protect Native culture, customary and traditional  
45 must apply as well to the way Native people hunt and fish.  
46 //

47 It is clear that since the Kenaitze case, not much in  
48 healing the subsistence rift has occurred. While the Peninsula  
49 receives grants to participate in economic, financial, rural  
50 programs, finding the Peninsula rural area will create great

00018

1 havoc with the sport fishing interests since this industry will  
2 most be effected. It seems to me that we are being told that  
3 subsistence users will take everything and cannot negotiate or  
4 obey rules. Well, you can't eat money.

5 //

6 And what of the laws? ANILCA is consistent with the  
7 larger body of U.S. Indian law. It operates apart from the  
8 Alaska State Constitution so it does not violate it. And  
9 finally, perhaps most important of all, what of our habitat?  
10 If it is nonrural, why is it being marketed as wilderness?

11 //

12 Thank you.

13 //

14 HEARING OFFICER KNAUER: Thank you. Ms. Elaina  
15 Spraker.

16 //

17 MS. SPRAKER: Dear Advisory Council members. My name  
18 is Elaina Spraker. I represent the Kenai Peninsula Outdoor  
19 Coalition, a broad-based group of fishing, hunting, trapping  
20 and outdoor organizations. Since organizing in the spring of  
21 1995, the group's goal has been to remove the subsistence  
22 priority from the road-connected Kenai Peninsula.

23 //

24 The KPOC accepts that a subsistence priority may be  
25 justified in remote parts of the state where people still  
26 derive most of their living from the land and where little cash  
27 economy exists. But we are steadfast in our belief that  
28 subsistence on the modern, road-connected Kenai Peninsula makes  
29 a sham of true subsistence.

30 //

31 The KPOC has always maintained that Congress never  
32 intended for the Kenai National Wildlife Refuge to be rural.  
33 It is the only refuge established by ANILCA whose purposes do  
34 not include providing for an opportunity for continued uses.  
35 Instead, ANILCA specifically states that one of the purposes  
36 for Kenai National Wildlife Refuge is to provide opportunities  
37 for fish and wildlife oriented recreation. Recreation is not  
38 subsistence. Will the Federal Subsistence Board next inform us  
39 that subsistence, which is not a listed purpose, has taken the  
40 place of recreation, which is listed as a purpose in ANILCA?

41 //

42 Residents of the road-connected communities of the  
43 Kenai Peninsula were not engaged in a subsistence way of life  
44 in 1980 when ANILCA became law. Even then, nearly 20 years  
45 ago, the fish and wildlife resources of the Peninsula were  
46 already fully allocated to sport, commercial and personal-use  
47 categories of users. If that was true then, how is it possible  
48 that these communities have somehow regressed to a subsistence  
49 way of life today?

50 //

00019

1           They have not. To the contrary, the Kenai Peninsula is  
2 one of the fastest growing areas in Alaska. Between 1980 and  
3 1990, the population of the Kenai Peninsula Borough increased  
4 from 25,282 to 40,802, a 61 percent increase. The 1998  
5 population is estimated at approximately 50,000. The road-  
6 connected communities of the Kenai Peninsula have a healthy and  
7 diverse economy.  
8 //

9           Although many people in these communities hunt, fish  
10 and enjoy eating fish and game, few, if any, of them depend  
11 upon these resources to sustain life. When they get up most  
12 mornings, they aren't forced by necessity to go out and catch  
13 something to eat. Instead, these people are employed in the  
14 oil industry, in the tourism industry, the fishing industry,  
15 the construction industry, the manufacturing industry, the  
16 retail trade industry, in services industry, and in local,  
17 State and Federal government jobs. They hunt and fish as a  
18 lifestyle, not to survive the up and coming winter.  
19 //

20           If the road-connected Kenai Peninsula were to be  
21 designated all rural for subsistence purposes on Federal lands  
22 and waters, many of our industries would be impacted. Tourism,  
23 dependent to a large degree upon sport fishing, would  
24 particularly suffer, as would retail trade and services  
25 industries. Commercial fishing and fish processing, already on  
26 the ropes from depressed market prices, would have one more  
27 threat with which to contend with.  
28 //

29           Rural designations for road-connected communities of  
30 the Peninsula may well have the effect of converting their  
31 economies from cash to subsistence. We don't think converting  
32 a Kenai to a Kaktovik or a Soldotna to an Igiugig is what  
33 Congress had in mind for rural preference in ANILCA. Nor do we  
34 think the residents of the road-connected Peninsula would trade  
35 their maintained roads and streets, their reliable, low-cost  
36 utilities and their modern schools, stores and hospitals for  
37 dirt roads and lack of amenities common to bush communities.  
38 While we may decry our property taxes, few of us would be  
39 willing to give up the high standard of living our healthy tax  
40 base provides. Yet, now comes the Federal Subsistence Board  
41 with an idea that would start us back to the Stone Age.  
42 //

43           Why the Kenaitze have petitioned the Southcentral  
44 Regional Federal Subsistence Advisory Council to make the  
45 entire Kenai Peninsula rural, we do not understand. Little or  
46 nothing would be gained, and much would be lost. If State  
47 lands and waters were involved, that would be something else.  
48 But more Federally designated rural communities on the Kenai  
49 would only further complicate already complex fish and wildlife  
50 management and allocation decisions. Federal regulations are

00020

1 already the cause of much divisiveness. More regulations would  
2 only cause more divisiveness and social upheaval.

3 //

4 Besides the social and economic losses, another loss if  
5 the Peninsula were to be designated all rural would be people's  
6 right to self-government. Here we are, at a meeting today  
7 called by the Federal bureaucrats who claim they are just going  
8 through the process. Yet, their process was entirely different  
9 when the KPOC requested that the road-connected communities of  
10 the Peninsula be changed to nonrural. The KPOC request was  
11 turned down without any process.

12 //

13 There are not now, nor will there be in the foreseeable  
14 future, any circumstances that warrant the Federal Subsistence  
15 Board addressing the issue of whether the road-connected  
16 communities of the Kenai Peninsula should be considered rural.  
17 Indeed, the KPOC contends that the Board erred in making Hope,  
18 Whittier, Ninilchik and Cooper Landing rural.

19 //

20 Furthermore, if the modern cities of the Kenai  
21 Peninsula are indeed nonrural, as we contend, the Federal  
22 Subsistence Board should reconsider the status of other  
23 similarly situated communities, such as Sitka, Kodiak and  
24 Saxman. These communities, too, are nonrural. We are  
25 confident that up-to-date and results of the year 2000 census  
26 will lead to more nonrural determinations and no more rural  
27 determinations.

28 //

29 This concludes my testimony on behalf of KPOC, Mr.  
30 Chairman.

31 //

32 I would like to make some additional comments for the  
33 record. I dug out an 1,800 signature petition that we went  
34 around in 1995 or '94, I believe, gathered by this community in  
35 10 days. That they did not want a rural designation. They did  
36 not want Federal management. I also dug out a compiled book of  
37 letters this thick and the vast majority of those letters  
38 opposed the same thing. And it baffles me why we're here today  
39 arguing about this. Been there, done that. And how many times  
40 does this community have to raise up and tell the Federal  
41 government that we do not want Federal management here on the  
42 Kenai Peninsula.

43 //

44 Thank you.

45 //

46 HEARING OFFICER KNAUER: Thank you. Mr. Gary Hull.

47 //

48 MR. HULL: My name is Gary Hull. I'm speaking for the  
49 Kenai River Professional Guides Association. At our last  
50 meeting we brought this issue up and they sent me here to

00021

1 convey one message: No.

2 //

3 Now, I would like to also speak for myself now that I'm  
4 done with that. Boy, I could use a drink, no, I've heard a lot  
5 of testimony by some of the Kenaitze members about how they're  
6 subsisting through the years, and it sounds like to me that  
7 they're subsisting. I don't see why we have to change things.  
8 Everybody gets fish, everybody gets a moose if they're willing  
9 to get off the couch and go get it. The Kenai that is on the  
10 road system is not rural. If this -- I'm like Elaina, I don't  
11 know why we're here. I've been fighting this thing for 10  
12 years it seems like. Every time I turn around we got to come  
13 back and do it again. I don't understand what part of no the  
14 Subsistence Board doesn't understand.

15 //

16 Once again, I'd like to say I am not in favor of it and  
17 please listen. Thank you.

18 //

19 HEARING OFFICER KNAUER: Thank you. Mr. Dick Bogard.

20 //

21 MR. BOGARD: Good evening. Well, I don't have any big  
22 prepared statement here.

23 //

24 I just want to tell you I've been up here for a few  
25 years, I think 57/58 years. I've seen lots of changes go on.  
26 And all of our ancestors were hunters, gatherers and fishermen  
27 at one time. Their used to be market hunting, their used to be  
28 no game regulations whatsoever. But it's been brought out  
29 here, times change. We can't market hunt anymore. We have to  
30 -- if we want to preserve game we have to do it by seasons and  
31 limits. And with our Supreme Court and I acknowledge that  
32 they're not perfect but they've been ruling pretty much in  
33 favor of equal treatment under the eyes of the law, not  
34 discrimination. And this kind of smacks me of discrimination.  
35 I don't think this would stand up in any court when you're  
36 giving special privileges to certain people. You talk about  
37 this c&t, customary and traditional. Well, they haven't even  
38 defined what it is.

39 //

40 And our Hearing Officer's boss is standing back there  
41 answering most of the questions, you notice what he said, it's  
42 going to be Bruce Babbitt who is going to be the final  
43 arbitrator; he's going to be the king. He will issue the  
44 proclamations and then we, as peons will do his bidding. If  
45 you read what this ANILCA is doing and you also realize there's  
46 no other state in the union that is subjected to this Federal  
47 control. And if you look at our Constitution, where did the  
48 give the Federal's the right to come in and supersede a state  
49 agreement? Now, I was one of those people that lived under the  
50 territory and lived under the Washington, D.C., management of

00022

1 fish and game for many years and it was pretty rotten. And  
2 that's one of the reasons that I was duped into voting for  
3 statehood; we were going to manage our fish and game. It  
4 didn't say except on Federal lands, except on this, we were  
5 going to manage -- and if you read the Statehood Compact, it's  
6 all fish and game occurring in Alaska. And we're supposed to  
7 come in under equal footing of the other states. Now, they've  
8 picked out Alaska as a playground for a bunch of rich Federals  
9 and they've played this game with us, it's the oldest game in  
10 the world. It's synthesis, thesis -- anti-thesis and  
11 synthesis. In plain words it means, put an issue before the  
12 people, divide them and get them fighting among themselves and  
13 then come in with a big auger and a big hammer and wham, you  
14 smash both of them and you put your wheel on to them. This is  
15 exactly what's happening.

16 //

17 If you notice, there isn't anything that said law here,  
18 it says regulations and rules. Well, if you recall when  
19 Senator Kennedy was up here in Alaska, I believe he was out  
20 near Round Island and he picked up some piece of something out  
21 there and some Federal person was going to give him a ticket  
22 and they give him a ticket for it, you know what their reply  
23 was to that, his treasurer, that's regulations, and everyone  
24 knows that regulations are not law. And that was the end of  
25 the case right here.

26 //

27 Now, then what jurisdiction and I'm sure you heard this  
28 from other people, where in our Constitution and where did the  
29 Federals get the right to push this on to us? Is there  
30 anything in there that says they can come into a state and push  
31 the state Constitution aside because the legal aspects of this  
32 are in 1989, they had the McDowell case that said everyone is  
33 equal. Now, then, if this is taken to the Supreme Court, I  
34 mean are we going to say that one group has more -- are they  
35 more equal as George Orwell's animal farm, all animals are  
36 equal but some are more equal than others? It isn't going to  
37 fly. And I feel that this whole thing -- if 51 percent of  
38 Congress, at their whim, can suddenly take our Constitution  
39 apart, shred it up and throw it away, what else are they going  
40 to do? What are they going to do tomorrow? Can they do this  
41 anytime they want to? This was a Compact. And if you've read  
42 law, you just don't just break a Compact unilaterally. One  
43 side can't break it it has to be done by both sides.

44 //

45 I feel this whole thing is color of law. It is of law.  
46 If it was law, why are they asking us to submit to us? Why are  
47 they asking us to change our Constitution? If it really had  
48 force of law, they'd come in and say, this is the law. You  
49 don't have to change your constitution, they are riding on  
50 very, very shaky and I feel unlawful and illegal ground in

00023

1 trying to do this.

2 //

3 Now, everyone would like to -- I'd like to get all the  
4 moose and fish and so forth that my grandfather used to get and  
5 my father used to get, can't do it. There's too many people  
6 and not enough game. We have to go along with the rules. I  
7 don't want to go back to the days when I used to live in a  
8 house that had no electricity, we only had kerosine lamps. I  
9 was born in a house that was 20 miles from the nearest town, I  
10 don't want to go back to that and I don't think anybody in this  
11 room wants to go back to that. Our subsistence right now is  
12 Safeway and Carrs and IGA. How many people today really, in  
13 this area, are living subsistence? The subsistence users that  
14 the State's already taking care of are north of the Arctic  
15 Circle where the law right now, there's only one month of the  
16 year, you can take 15 caribou a day for 11 months out of the  
17 year, now, those are subsistence users. Those people are  
18 living off the land. How many, gee, I'd like to have X number  
19 of king salmon, X number of moose and so forth; can't do it.  
20 We got to go with the flow. We can't go back and be backwards  
21 again. Are we going to go back to the days of the kings and  
22 the peons, because this is what this stuff is.

23 //

24 If Bruce Babbitt, he's going to be the king, he's going  
25 to decide what's customary and traditional. He's going to  
26 decide, is the Kenai River flowing into Cook Inlet going to be  
27 part of the subsistence regulations that he can control? Then  
28 they're going to control the whole Pacific Ocean, I mean where  
29 does it end? Are we going to live together as human beings or  
30 are we going to try to be ones that are I want mine and nobody  
31 else can get theirs. I think it's a matter of greed. I want  
32 mine and you can't have yours and you can't either, nobody else  
33 can have it, that's not a fair shake.

34 //

35 We're all put here on this earth, the game is here for  
36 all of us, not just for one group or one person or one area.  
37 Let's all start living like human beings and realize that you  
38 can't go back. We can't go back. It'd be nice to go back when  
39 there were days we didn't have atomic bombs; can't do it. We  
40 got to live in reality.

41 //

42 I hope you listen and thank you for the time.

43 //

44 HEARING OFFICER KNAUER: Thank you, sir. Mr. Larry  
45 Lewis.

46 //

47 MR. LEWIS: Good evening. My name is Larry Lewis. I'm  
48 from Kasilof, Alaska, which is still part of the United States  
49 of America, by the way.

50 //

00024

1           Before I get started I want to make a public record  
2 protest about Board members addressing this audience about  
3 public policy off the record. I think everything in these  
4 meetings should be on the record unless they're one on one  
5 conversations. So that's done.  
6 //

7           I would like to thank the Federal Subsistence Board for  
8 sending you as a committee to hear public committee on the  
9 proposed rural designation for subsistence management on the  
10 Kenai Peninsula. I am vehemently opposed to a rural  
11 subsistence priority on the Kenai be it done piecemeal, as in  
12 the community of Ninilchik, otherwise known as the self-  
13 described vacation capital of the Kenai Peninsula or as a  
14 blanket designation for the entire Peninsula.  
15 //

16           On the surface, a rural designation can sound good but  
17 using simple basic terms, it means for some, I get mine first.  
18 The major emphasis behind this proposal seems to be, let us  
19 fill our freezers and fill our cupboards before winter. Well,  
20 that's always a good idea and one that I and my family believe  
21 in and must point out that I have yet to see one starving Kenai  
22 Peninsula resident. Why I, and most other Peninsula residents  
23 choose to supplement our food stocks from our fish and game  
24 resources, I believe it would be safe to say that true  
25 subsistence is not a part of the Kenai Peninsula lifestyle.  
26 //

27           We have here on the Peninsula modern infrastructure  
28 that more than meets people's basic needs. You must remember  
29 that subsistence is defined as meeting the most basic of needs.  
30 That's hardly a description or definition of the Peninsula  
31 lifestyle. While some may whine about what are essentially  
32 allocation issues that can best be addressed through the State  
33 of Alaska Fish and Game Board's process, no one could argue  
34 against the fact that we have a cash based economy on the  
35 Kenai. It is a fact that I would like to address.  
36 //

37           According to the Federal Subsistence Board's own  
38 advance notice to proposed rulemaking, which describes land and  
39 waters to come under Federal jurisdiction; I just happen to  
40 have it right here. And this came from the Fish and Wildlife  
41 Service. It describes areas that -- of land, National Wildlife  
42 Refuges and on and on that would be effected by this Forest  
43 Service land, and all waters within or adjacent to the exterior  
44 boundaries. There's a definition here, during the question and  
45 answer period someone asked if the entire river would be  
46 Federally regulated and they were told probably not. Well,  
47 here it just says the advance notice would also specifically  
48 delegate to the Board the authority to determine when hunting,  
49 fishing or trapping activities that occur off Federal lands are  
50 interfering with subsistence activities to such an extent as to



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1 result in failure and to restrict or eliminate such activities.  
2 In other words, if subsistence is restricted, then the Board  
3 has the authority to -- this authority would be limited to the  
4 territorial limits of Alaska, the three mile limit and would be  
5 used only sparingly. That means basically that if subsistence  
6 uses need to be curtailed, then all other uses take a back seat  
7 and standby. So to the people around here that wanted to know  
8 what happens to the rest of the river, there it is right here.  
9 And if anybody wants to see this, I'll gladly show it to them.  
10 //

11 According to the Kenai Peninsula Borough economic  
12 development district for the year 1997 alone taxable sales for  
13 lodging and recreational services on the Kenai Peninsula  
14 accounted for \$51,998,226. For the same year, combined lodging  
15 and recreational service wages came to \$9,771,290. Also for  
16 the year 1995, and because that's the most recent figures they  
17 have, commercial fishing industry showed gross earnings of over  
18 29 million dollars, and that's just for Cook Inlet fish. 1998  
19 -- or 1988 showed a peak of 130 plus or minus million and 1992  
20 of around 105 million. In 1996 there was 1,151 resident  
21 commercial permits issued. Now, these are just some quick  
22 figures to show you that a rural designation will adversely  
23 effect the Kenai Peninsula's residents well being. If the  
24 entire Kenai River is regulated for subsistence use, you can  
25 darn sure bet that there's going to be some economic fallout.  
26 //

27 I also have it on good authority that as part of the  
28 proposed rulemaking process that's been recently sent to the  
29 Interior Department for approval, and it will be implemented in  
30 October of 1999, that there was a regulatory impact analysis  
31 for major rules done and there was also a regulatory  
32 flexibility act. Part of the criteria for a regulatory impact  
33 analysis is a major rule, is one likely to result in an annual  
34 effect on the economy of 100 million or more. So obviously if  
35 the Fish and Wildlife Service or whoever did this analysis  
36 feels there's going to be an impact of 100 million dollars or  
37 more then I believe them and that's why it was done.  
38 //

39 I wonder if the real intent of this proposal -- I  
40 wonder what is the real intent of this proposal? Surely, the  
41 people who have put this proposal forward must understand that  
42 the Kenai Peninsula infrastructure, all the businesses, local  
43 governments and the jobs and services they provide and are  
44 enjoyed by all cannot survive on oil revenues alone. There's a  
45 definite us against them mentality prevalent here tonight that  
46 saddens me. I don't know why some people continue to identify  
47 themselves by race when talking about natural resource  
48 allocation. I want to know what happened to the concept of a  
49 level playing field and a color blind society. That's what I  
50 teach my daughter. And I don't know what everyone else here

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1 teaches their kids but it frightens me to think about some of  
2 the things that might be taught.

3 //

4 I wonder how the Federal customary trade allowance  
5 who's monetary limits would be set by a Federal judge, based  
6 not on sound biological management practices, but rather on  
7 social need would further effect our lives and economy. I  
8 submit these actions would be devastating to the people of the  
9 Peninsula.

10 //

11 Just for the record, I asked during the question and  
12 answer period why Anchorage residents don't have a hearing,  
13 I'll ask now for the record. I also wonder why Anchorage  
14 residents were not given more of an opportunity for public  
15 comment? Why no hearings in Anchorage during the preliminary  
16 rulemaking process? Surely these people would stand to lose a  
17 great deal if the Kenai Peninsula were designated rural. Quite  
18 frankly, I'm sick and tired of constant efforts to slice up our  
19 state and people into a bunch of haves and have-nots, no matter  
20 who orchestrates it.

21 //

22 In conclusion, I will state once again that I'm opposed  
23 to any attempts by anyone to segregate the Kenai Peninsula by  
24 any title or label that results in discriminatory allocation of  
25 jointly held natural resources.

26 //

27 Thank you very much.

28 //

29 HEARING OFFICER KNAUER: Thank you, Mr. Lewis. We  
30 would appreciate no display of either support or non-support  
31 either during or after a presentation. That's not showing  
32 proper respect for all individuals here, all of whom have spent  
33 a lot of time, both preparing their remarks and attending this  
34 meeting this evening.

35 //

36 The next person is Mr. Don Johnson.

37 //

38 MS. MOORE: What about free speech?

39 //

40 MR. JOHNSON: Hi. Thanks for giving me this  
41 opportunity. My name's Don Johnson, I'm speaking for myself.

42 //

43 I wholeheartedly agree with the last speaker, he's  
44 right on. The issue here is really the rural definition. It's  
45 sovereignty, it's discrimination, it's racism. There's a lot  
46 of stuff involved, but what I'll get into is first of all I am  
47 a member of the human race and that's my tribe. I don't ask  
48 for any special privileges above and beyond anybody else. I  
49 except the same thing for everybody else around my -- if my  
50 neighbor can get along with it, I can get along with it. I

00027

1 don't go around telling people that because of certain kind of  
2 blood in my veins, the color of my skin or my heritage I  
3 deserve something special. I think if my neighbor can get  
4 along with it, I probably can get along with it.

5 //

6 That's why I live in the United States because I feel  
7 that's the way the system should be run. And if I didn't like  
8 it, I'd move out, go someplace better.

9 //

10 As far as the rural designation on the Kenai Peninsula  
11 goes, I really don't know why we're here today either. I know  
12 the Congress did some really dumb things with ANILCA and that's  
13 why we're here today and we're trying to fix it and they should  
14 be held accountable to fix it but we're trying to do it on a  
15 more grassroots level. And because I disagree with the rural  
16 preference for the Kenai Peninsula, I also disagree with the  
17 rural preference for the state of Alaska, period. I also  
18 disagree with the rural preference for the United States of  
19 America. It goes right on up the line to good old ANILCA.

20 //

21 ANILCA came about back in 1971 when -- it was just  
22 after the race riots basically down in the Lower 48. Everybody  
23 was really bent out of shape because of the race issue down  
24 there. And then suddenly the ANILCA issue comes up in front of  
25 the Congress and right straight out of that race situation.  
26 All of a sudden here comes a question of we're going to  
27 discriminate against people. And they wrote ANILCA, I don't  
28 know how many of you guys are familiar with how ANILCA came to  
29 be but I'm going to read you how it came to be, basically from  
30 memory and from what I got in front of me; I've got a copy of  
31 ANILCA. They decided that between the aboriginal Native in  
32 Alaskan and Congress, that they had to give a special privilege  
33 to the aboriginal Native in Alaska and Congress says, okay,  
34 that's okay, we'll do that. They wrote it up into the act,  
35 they called it ANILCA and they were going to pass it and the  
36 courts came along and said, no way you can't do this, it's not  
37 going to fly, it's pure blatant racism, it's going to fall  
38 right between the cracks in the courts. So they went back and  
39 said okay we got to get a workshop and redo this thing and we  
40 got to get the racist element out of it and we got to put some  
41 other wording in here to get rid of this thing. And what  
42 basically they had in it was the wording was Alaska Natives,  
43 the whole thing was just filled with the word, Alaska Natives.  
44 And they were trying to give privilege to Alaska Natives. And  
45 that's what the courts basically told them wasn't going to  
46 work. So they came back in and they said we got to change it,  
47 what's the word we got to use? They came up with the cliché  
48 word, rural. They said you probably can get away with  
49 geographic discrimination but you can't get away with blood  
50 discrimination. So they grabbed on to the word, rural, and

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1 they injected the word non-Native along side the word, Native.  
2 So they figure that they got themselves a pretty clean act  
3 doing it that way and they cleaned the whole mess up and they  
4 sent it on down the line and passed it and now we've got it 20  
5 years later and we're sitting here looking at the exact same  
6 issue. What you got basically is you got a bunch of people  
7 that designed a racist document and tried to relabel it into  
8 something that it didn't sound like it was racist and let it go  
9 on down the line to the people of Alaska and it came right  
10 smack up against our Constitution's common use clause. Which  
11 basically, the United States government said, man, that's a  
12 great clause, we'll make sure you got that in there. That's  
13 the best Constitution we've ever seen. So they go in there and  
14 they sign on to our Statehood Compact and they say that common  
15 use clause is great with them, the United States agree 100  
16 percent with it. Then they come along and they sign the  
17 document from ANILCA stating that it's not okay. So they  
18 basically wrote a document, the ANILCA Act that conflicted with  
19 the Constitution which basically is a mistake. The Congress  
20 made a mistake. They should have went back and undid it but  
21 they didn't. So they let the whole thing fall through and  
22 that's why we're here today.

23 //

24 You're all sitting here on this Board trying to fix the  
25 mess they created and I don't think you're going to be able to  
26 do it, so basically you could say you're wasting your time  
27 here. I could say I'm wasting my time. But this is a  
28 democracy and we're all putting in our two cents.

29 //

30 When it comes to -- what happened basically is they  
31 created a racist document, it was thrown out because it was  
32 blood racism and they turned it into geographic racism. And  
33 that's ANILCA. And you can relabel it and call it something  
34 else but basically the cliché I like to use is a rose by any  
35 other name is still a rose, and in this case, garbage by any  
36 other name is still garbage; and that's what ANILCA is. When  
37 it comes to the ANILCA issue and the rural issue, it's  
38 basically a sovereignty issue. It comes to push and shove just  
39 like the other speaker was saying and the United States of  
40 America has no right coming in and telling the State that it's  
41 going to undo its Statehood Compact. It signed off on the  
42 dotted line and said okay you guys you got control. We brought  
43 you in on an equal footing with the rest of the states and have  
44 fun. That's basically what they did. It's not a monopoly  
45 game. You don't sit here and say, oh, guess what you guys,  
46 you're doing something we don't like, we're taking back the  
47 Statehood Act from you right now, you're out. And then when  
48 you start behaving they give it back to you. And then when you  
49 don't behave -- it's back and forth. That's not the way it's  
50 supposed to work.

00029

1           So I guess the message that I'm sending up the line  
2 from you folks to your Federal people that appointed you to  
3 where you're at, is that they need to rethink what they're  
4 doing. They need to rethink the money that Alaska is spending  
5 going around and around the state trying to reclassify areas  
6 like the Kenai Peninsula into rural to fix problems. And I can  
7 identify with what's going on with the Kenaitze Indian Tribe,  
8 you know, the Kenaitze Indian Tribe might not like this but  
9 this is what they're doing. They were part of the element that  
10 got this ANILCA passed, I mean there was a lot of people  
11 involved but there was a -- a lot of stuff went into ANILCA.  
12 And what happened basically is they wanted to get something  
13 over their neighbors and that's exactly what ANILCA did. It  
14 was bred for that and that's exactly what it did. And when it  
15 came down to the Kenai Peninsula and they started really  
16 figuring out how it was going to effect them, physically on the  
17 Kenai Peninsula, they said, uh-huh, hold it a second, this  
18 thing is going to wipe me out and this isn't going to fly with  
19 me, we've got to do something. The next thing you know you got  
20 a proposal, let's change the Kenai Peninsula into a rural  
21 classification now to fix this problem. Meanwhile, we're going  
22 to disenfranchised Anchorage. What it comes down to is we're  
23 right now sitting here trying to argue and fight whether or not  
24 we should take the rights of hunting and fishing away from the  
25 people in Anchorage, and I'm not going to stand for it. You  
26 guys can sit here and say that you are for it or against it or  
27 whatever, I'm not going to sit here and say that I want to  
28 stand here and take a fish away from somebody in Anchorage. I  
29 don't think I have the right to do that really. And I don't  
30 think the people up in Anchorage got the right to stand up  
31 there and say they're going to take a fish away from me. And  
32 that's what this whole thing comes down, it's just a game is  
33 what it is.

34 //

35           And as far as what's going on, I guess I can sum it up  
36 in one word, it's discrimination. And I think it is not right  
37 and if you want to send a message up the line from me, it's  
38 that I think you got to take this thing back to the drawing  
39 board and get back to who wrote ANILCA. It's the Congress.  
40 You need to send the word up the line and say, hey, you guys,  
41 you've amended ANILCA, I think it's like 20 or 30 times now and  
42 everybody thought that was great. Well, it looks like they're  
43 going to do it one more time.

44 //

45           Thanks.

46 //

47           HEARING OFFICER KNAUER: Thank you, sir. Mr. Les  
48 Palmer.

49 //

50           MR. PALMER: My name is Les Palmer. I live in

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1 Sterling. I fish and hunt and my family eats what I catch and  
2 shoot. I'm not a fishing guide or a commercial fisherman or  
3 even a bed and breakfast owner. I'm probably the only one on  
4 the Peninsula who isn't. I write for a living.

5 //

6 Mr. Chairman, in the normal course of events I would  
7 thank you for the opportunity to testify on the issue before us  
8 this evening. However, for me to do so would be insincere. In  
9 fact, I wish you were not here. I see no reason for any of us  
10 to be here. And I think your feet ought to be held to the fire  
11 because all of us are wasting our time.

12 //

13 In 1995 the will of the residents of the Kenai  
14 Peninsula was clearly stated in a series of meetings held by  
15 the Federal Subsistence Board. By the way, this meeting is  
16 held by the Southcentral Regional Federal Subsistence Council  
17 or words to that effect. It's an advisory council, it's not  
18 the Federal Subsistence Board. There seems to be some  
19 confusion on that. The message of the people of the Kenai  
20 Peninsula was that subsistence does not belong on the road-  
21 connected Kenai Peninsula. Now, here we are again three years  
22 later. As a couple of people have stated earlier, this meeting  
23 begs the question, what part of no don't you understand.

24 //

25 The people who live here, like people everywhere, want  
26 fair and equal treatment. The Kenai Peninsula Outdoor  
27 Coalition, of which I'm a Board member, asked the Federal  
28 Subsistence Board to make all road-connected communities on the  
29 Kenai Peninsula nonrural. The Board turned down that request  
30 saying that it could only be addressed after the year 2000  
31 census. Why then are we here tonight testifying about a  
32 proposal to make more communities rural. Some of us are  
33 apparently more equal than others which was also said before.

34 //

35 In 1995 residents of the Peninsula plainly told the  
36 Federal Subsistence Board that it had made a mistake in  
37 designating Ninilchik, Cooper Landing, Whittier and Hope rural.  
38 If that was a mistake, what possible reason could there be now  
39 for designating even less rural cities as rural. Over the past  
40 three years the cities of the Peninsula have grown less rural  
41 not more rural. This is an exercise in absurdity. Your choice  
42 of meeting places leaves me wondering. Why are you not holding  
43 a meeting in Anchorage where half the state's population would  
44 be seriously interested in a decision that may well determine  
45 whether they will even be able to fish on the Kenai Peninsula  
46 in the future? The reason why is one of the reasons why  
47 subsistence has caused such huge rifts in Alaska's social  
48 fabric. The reason why is because the entire Federal process,  
49 including these subsistence advisory councils is unjust and  
50 oppressive.

00031

1 In recent years Peninsula residents have loudly, firmly  
2 and almost unanimously declared at public meetings, by  
3 petition, in picket lines, on radio talk shows, and in every  
4 other way imaginable that we do not want the Feds managing fish  
5 and game. Yet, all this didn't noticeably change a thing. For  
6 all the good it did, we may as well as stayed home. Now, here  
7 we are at another meeting looking at the same faces, repeating  
8 the same message. Why? If this is your process, we want no  
9 part of it. It's tyrannical. The process that brought us here  
10 tonight is seriously flawed. It wasn't arrived at by any form  
11 of democratic government but by various Federal bureaucrats who  
12 were and are accountable to no one. Unlike our local fish and  
13 game advisory committees, the members of the Federal  
14 subsistence advisory councils aren't elected but are appointed  
15 by the Secretaries of Agriculture and Interior. In  
16 Southcentral, which has nearly 60 percent of the state's  
17 population, the seven advisory council members have  
18 extraordinary political power.

19 //

20 Mr. Chairman, the reason I mention the Federal  
21 subsistence advisory councils at this time is because the  
22 Southcentral Council has completely ignored all but a few  
23 residents on the Kenai Peninsula by voting unanimously for a  
24 rural designation for road-connected communities. This Council  
25 continues to ignore Peninsula residents. Be assured that we  
26 want no part whatsoever of such a rude and sensitive and  
27 obviously racially biased political process. This is just one  
28 more reason why the communities on the road-connected Kenai  
29 Peninsula should not be changed to rural.

30 //

31 As to the Kenaitze proposal, try as I might I can't see  
32 what the Kenaitze hope to gain. If they want more salmon they  
33 should have submitted a proposal to the Board of Fisheries.  
34 The Board of Fisheries proposal book for the 1998/1999 meetings  
35 dealing with Cook Inlet contains no proposal from them or any  
36 other group to expand the present personal use salmon fisheries  
37 on the Peninsula. The Alaska Board of Fisheries is the proper  
38 place for requesting changes in fisheries allocations, not the  
39 Federal government. From conversations I've had with various  
40 fishermen and fisheries managers, I believe the Board of  
41 Fisheries may be amenable to some fine-tuning of the present  
42 personal use salmon fisheries in Cook Inlet. I encourage the  
43 Kenaitze and any other interested parties to attend the Board  
44 of Fisheries meeting scheduled for Soldotna between February  
45 16th and 28th, 1999. Proposal No. 224 by the Department of  
46 Fish and Game addresses Upper Cook Inlet personal use salmon  
47 fishery management and would open the subject for discussion by  
48 the Board.

49 //

50 If the Kenaitze have the will to go through all this

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1 trouble just for an outside chance that they will get a little  
2 back of what they lost, as they put it, then they should be  
3 able to muster up the will to ask the Board of Fisheries for  
4 more gillnetting time in Cook Inlet. If the proceeding has  
5 been confusing, I will here state that there are no  
6 circumstances that warrant the Federal Subsistence Board's  
7 consideration of the rural issue on the Peninsula now. That  
8 consideration, if anyone still thinks it's necessary can wait  
9 until after the year 2000 census. At that time the Kenai  
10 Peninsula Outdoor Coalition will no doubt ask the Board to also  
11 consider changing all road-connected communities back to  
12 nonrural with the aim of getting us all back to acting like  
13 neighbors again. As to whether more communities on the  
14 Peninsula should be changed to a rural designation, I believe  
15 my preceding remarks have made that question moot. But just in  
16 case you didn't hear me, my answer is no, that's N-O.

17 //

18 HEARING OFFICER KNAUER: Thank you, Mr. Palmer. Mr.  
19 David Donald.

20 //

21 MR. DONALD: My name is David Donald. I'm a local  
22 resident. I'd like to give thanks to this gentleman down here  
23 on the end, your question and answer period, I thought you did  
24 a pretty good job of it. Unfortunately, the special  
25 circumstances weren't published beforehand to know why we're  
26 here out-of-cycle, because we're here because we don't know  
27 why.

28 //

29 We need to know the ramifications of being designated  
30 rural. There's too much speculation. For example, I'm very  
31 concerned about the ownership of the fish and the game. And I  
32 don't know any answers and I don't think anybody else does.

33 //

34 We are not a rural area in a true sense. A village  
35 with no roads may be considered rural, but not the Peninsula in  
36 its entirety. So I would say no for the rural designation.

37 //

38 Thanks.

39 //

40 HEARING OFFICER KNAUER: Thank you, sir. Mr. Allan  
41 Baldwin.

42 //

43 MR. BALDWIN: Good evening. I'm Allan Baldwin and I  
44 live in Kasilof. I would like to present this -- the only real  
45 special consideration that I believe the Board should seriously  
46 consider, and that is to uphold Federal law.

47 //

48 The Kenaitze people are not asking the Board to change  
49 regulation. We're simply asking that the law be upheld. The  
50 Board can't rely on a paraphrase of Federal law. The Board



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1 must -- they must rely on the law itself, the way it reads.  
2 And the way it reads is that the residents of a locality, both  
3 Native and non-Native would have access to this fish and game.  
4 //

5 And I've heard a lot over the last few days about  
6 personal use fisheries and a lot about subsistence. And it is  
7 apparent and it really is a fact, personal use and subsistence  
8 are one in the same, you can't separate subsistence as one  
9 issue and personal use as another; they're both the same.  
10 //

11 You know, tonight I've heard a great deal about  
12 division and a lot about ANILCA. And when I read Section VIII  
13 of ANILCA, and can read and see in that law, Native and non-  
14 Native, together, being protected by ANILCA, Section VIII, it  
15 doesn't make sense to me for one group or the other to claim  
16 that this law is on the books, is divisive. This law is  
17 protecting the residents of the Kenai Peninsula from what I  
18 believe and what I have seen in the last many years, is an  
19 influx of non-resident people taking our fish and game. I  
20 don't believe that if the Kenai Peninsula becomes rural in its  
21 entirety, that a resident of the Peninsula who resides in  
22 Nikiski cannot hunt and fish in the Seward area.  
23 //

24 Residency on the Kenai Peninsula and the subsistence  
25 definitions talk about the ease of harvesting a renewable  
26 resource. And I've never considered Seward separate from the  
27 Kenai Peninsula. I've never considered Homer as separate from  
28 the Kenai Peninsula or Nikiski from the Kenai Peninsula. And I  
29 believe ANILCA covers the idea of separating or dividing up the  
30 Kenai Peninsula. I believe that all of the fish and game  
31 resources on the Peninsula belong to the Peninsula residents,  
32 whether they're in Nikiski, Seward, Homer, Port Graham or  
33 Seldovia. The Kenai Peninsula residents belong to those  
34 resources.  
35 //

36 I live in Kasilof specifically so that I'm not part of  
37 what I consider an urban area. I don't want to live in  
38 Anchorage and I don't want to be considered any part of an  
39 urban area. And I would just like the Board to uphold the law.  
40 And whether we like it or not ANILCA is the law.  
41 //

42 If we have a problem with that law, we need to speak to  
43 Congress and we can change the law. But right now ANILCA is  
44 the law and until that law is changed, the Board needs to read  
45 that law and classify the Kenai Peninsula as a rural area.  
46 //

47 Thank you.  
48 //

49 HEARING OFFICER KNAUER: Thank you, sir. Mr. Robert  
50 Williams.

00034

1 MR. WILLIAMS: I'm Robert Williams. I also live in  
2 Kasilof. And I'm here representing the Kenai Peninsula  
3 Fishermen's Association. And it's a membership that ranges  
4 anywhere from 250 to 500, depending on how much they like us.  
5 Right now our whole board consensus was totally against this  
6 rural classification.  
7 //

8 And I think the commercial fishermen and the commercial  
9 fishermen in the river and in the inlet as well would feel a  
10 lot of ramifications from this fish having to get up river  
11 basically. This could effect all the way out to the Area M in  
12 the Aleutian Islands as far as that goes. Anybody that's  
13 considering intercepting fish that are headed up the river on  
14 to Federal land. So that involves all the commercial fishermen  
15 out in the inlet as well as in the river, the guided industry.  
16 //

17 The Kenai Peninsula's population has doubled, at least,  
18 since I've been here. And I've been fishing out in the inlet  
19 for about 18 years now and it'd be nice to go back to the way  
20 things were but it's not going to happen. I think a big part  
21 of this has to be looked at as an economic loss if this area  
22 was classified as rural. And listening to the question and  
23 answer session here, there was a lot of half answered  
24 questions, unanswered questions and a lot of maybes and what  
25 ifs. I didn't hear from anybody on the Board here. It just  
26 doesn't make me feel very confident, nor anybody in our  
27 organization of what could happen to us.  
28 //

29 And furthermore, I don't know of anybody that lives in  
30 our area or is a board member of KPFA that would feel  
31 comfortable with having any more Federal management in our area  
32 as it is. We're scared to death of it. We saw what happened  
33 down in Ninilchik and we sure don't want anything like that  
34 happening around here. Okay, that's from the board.  
35 //

36 And personally, I think our fish and game is managed  
37 very well considering the rising population. We have disputes  
38 about allocation issues that are taken care of at the Board of  
39 Fish level. But as far as the game management on the  
40 Peninsula, it's taken care of very well and so is the fish with  
41 a few grievances that I have about that, but that's neither  
42 here nor there.  
43 //

44 And that's it.  
45 //

46 HEARING OFFICER KNAUER: Thank you, sir. Mr. David  
47 Martin.  
48 //

49 MR. MARTIN: My name's David Martin. I'm a 27 year  
50 resident of the Kenai Peninsula. I live north of Ninilchik and

00035

1 I'm within the rural subsistence boundary designation for  
2 Ninilchik. I see the main issue here tonight is the special  
3 circumstances for this meeting. I don't see where there's any  
4 special circumstances at all to even conduct the meeting for  
5 this out-of-cycle agenda.

6 //

7 I think the Advisory Council here should develop some  
8 criteria to address the change of request or at least petitions  
9 or whatever you want to call them so it's not a public burden  
10 to repeat themselves. This meeting should not even occur until  
11 at least 2001 review.

12 //

13 At the Ninilchik meeting when this issue was brought  
14 up, we had quite a few of them, the subsistence Board met down  
15 there. There was overwhelming testimony against rural  
16 subsistence designation. And basically there's only one family  
17 that was in favor and we had it forced on us anyway. Ninilchik  
18 is not rural. The Kenai Peninsula is not rural. We were not  
19 listened to in Ninilchik. Public meetings should be held not  
20 just to fulfill your requirements, they should be held to truly  
21 listen to the people. We shouldn't even consider this issue  
22 until the 2001 review. And even then the rural subsistence  
23 designation for the Kenai Peninsula should be denied.

24 //

25 I guess to sum up, saying we need to listen to the  
26 people. You need to have criteria, you guys have heard it over  
27 and over, no. Let's stop having a public burden here to come  
28 to these meetings and repeat the same thing.

29 //

30 Thanks.

31 //

32 HEARING OFFICER KNAUER: Thank you, sir. Mr. Keith  
33 Phillips.

34 //

35 MR. PHILLIPS: My name is Keith Phillips. I'm  
36 president of Alaska's Kenai Peninsula Chapter Safari Club  
37 International. I speak for 75 members who hunt, commercial and  
38 sport fish, guide, own businesses on this Peninsula, when I say  
39 that under no circumstances do we support a rural preference on  
40 the Kenai Peninsula.

41 //

42 Under present fish and wildlife management there are  
43 fair and equitable methods of allocating these resources  
44 without adversely impacting the resource or the approximate  
45 50,000 residents. In this case fair and equitable means equal  
46 for everyone not just a privileged few. If this Peninsula is  
47 designated rural preference, the fish, game and our economy  
48 will be devastated by the actions of the Federal Subsistence  
49 Board. We also believe that any decisions allowing this would  
50 be based on faulty and inappropriate evidence similar to their

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1 previous determinations. In other words, they don't follow  
2 their own written guidelines and policies when making decisions  
3 on subsistence issues.  
4 //

5 In closing, I feel you're wasting our valuable time  
6 having to address an issue that's already been commented on and  
7 previously rejected and shouldn't even be discussed again  
8 without an economic impact study for this issue. I fully  
9 believe that such a study will show this proposal for what it  
10 is; a detriment to the 50,000 plus residents living on the  
11 Kenai Peninsula.  
12 //

13 Thank you.  
14 //

15 HEARING OFFICER KNAUER: Thank you, sir. Mr. Joe  
16 Bazan.  
17 //

18 MR. BAZAN: My name is Joe Bazan. I live in Sterling.  
19 Right now I'm speaking for the Alaska Trappers Association.  
20 And they're opposed to creating the Kenai Peninsula as a rural  
21 area.  
22 //

23 With that said, I'll go into a few other things on my  
24 own here. One of them is, this out-of-cycle stuff is just a  
25 burden on the public. You should stick to the cycle. We said  
26 no last time, we mean no again. There's too much industry, a  
27 road system, schools and college and everything that's on this  
28 Peninsula and a great tourist industry and the rural  
29 designation would destroy this.  
30 //

31 HEARING OFFICER KNAUER: Thank you, sir. Mr. Rob  
32 Chiappone.  
33 //

34 MR. CHIAPPONE: I'm Rob Chiappone from Sterling,  
35 Alaska. I've had trouble deciphering some of the definitions  
36 that this subsistence issue has brought up. Specifically the  
37 term rural and tradition.  
38 //

39 There is one definition that I'm familiar with and  
40 that's that Federal lands are defined as public lands. And I  
41 have a hard time stomaching the fact that you're going to tie  
42 up some public lands to a few people and we're going to prevent  
43 public, the general public from accessing those lands. So I  
44 feel like a real hypocrite knowing that I'm going to get  
45 special privileges to harvest fish and game resources that  
46 belong to the public. We enjoy hunting all the way across the  
47 state of Alaska, it's a privilege. And I'm not willing to take  
48 that privilege away from other Alaska residents. We also enjoy  
49 the privilege of traveling outside of this state to hunt in  
50 other states and fish in other states. That's been going on

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1 for a long time, long before there were any states. Man has  
2 traveled far and wide to gather. I can't see preventing others  
3 from coming in here, I just feel like a real hypocrite.

4 //

5 So I cannot accept this rural preference. Thank you.

6 //

7 HEARING OFFICER KNAUER: Thank you, sir. Ms. Kathleen  
8 Moore.

9 //

10 MS. MOORE: I'm Kathleen Moore. And I live in Kenai  
11 now. I was born and raised up in Fairbanks and my dad and all  
12 of our people came up here to Alaska in the gold rush. So my  
13 son sitting back here is a fifth generation Alaskan. And our  
14 family's been on the Kenai now for three generations. My  
15 grandfather homesteaded at Moose Pass and I lived for, oh, I  
16 don't know, most of the last 25 years I've had a home in Port  
17 Graham. And I lived in Homer. And I went to college in  
18 Fairbanks and Anchorage and Juneau. I worked all over the  
19 state, I think the only place I haven't worked is Bethel. I've  
20 in Barrow, McGrath, I've lived all over the state. And  
21 everything in season I always felt like I had a God given right  
22 to go ahead and participate in the harvest if I wanted to and  
23 needed to share it, sort of the joy of life, you know, to be  
24 able to subsist.

25 //

26 That word, though, has gotten really political. It  
27 doesn't mean subsistence really, it means politics. Who gets  
28 to make the rules and who gets to spend the money. So when we  
29 talk about words like rural we're not really talking about  
30 rural anymore, we're talking about who gets to be in power and  
31 who doesn't.

32 //

33 When I was in Port Graham, I went down there when I was  
34 19 years old and I bought an old piece of property that used to  
35 be where the Russians had a place and the Alaska Commercial  
36 Company had a place and it'd been there since way back, about  
37 the Treaty or before that actually. And I moved in there and I  
38 went to live a lifestyle, which, you know, you call subsistence  
39 because I didn't have welfare. All my neighbors in the village  
40 had a lot of welfare, I'll guarantee you. They were subsidized  
41 every which way. They had a lot of advantages that I didn't  
42 get to have because I'm a Caucasian and I've had to deal with  
43 that all my life, particularly since the Alaska Native Land  
44 Claim Settlement Act.

45 //

46 You know, I got into a predicament down there where I'd  
47 been fishing subsistence and I was actually giving probably 50  
48 percent of my catch to the village and also to my family  
49 extended all over Alaska, speaking of salmon. Where -- this is  
50 pre-McDowell. The State decided that because I didn't reside

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1 right in the village year-round, that I wasn't going to get to  
2 fish subsistence anymore. Because some of the folks in the  
3 village who had gotten kind of selfish and greedy even though  
4 they were richer than they'd ever been, for some reason that  
5 didn't help their generosity or their sense of sharing,  
6 wherever that went, that I wasn't going to get to fish  
7 subsistence. So I was up against the village, the Native  
8 community and I was up against the Federal government and I was  
9 up against the state of Alaska and I was all by myself. I  
10 didn't have a lot of lawyers, I didn't have a non-profit  
11 corporation, I didn't have any legislation, I didn't have  
12 anything backing me up, no welfare, nothing. So I took off and  
13 went to Anchorage and spent almost three months in the law  
14 library writing up an appeal to this thing. I kind of ended up  
15 ducking out on the deal where I had proved my residency at this  
16 place in Port Graham and they kind of bought it so I didn't  
17 have to end up becoming some kind of a lightning rod for this  
18 kind of issue.

19 //

20 But I just want to tell you, it was really a bad  
21 feeling, you know, because I love nature, living off the land.  
22 I made a career out of it, essentially I didn't do very much  
23 else. I lived that way. I mean that's the way my ancestors  
24 lived, that's the way I wanted to live. And I ran into this  
25 rural residency thing, and it's not a very good feeling, I'll  
26 tell you when somebody says, you don't get to eat like that  
27 around here anymore, you just have to go find something else to  
28 do.

29 //

30 So I hope nobody ever gets put in that position ever.  
31 And I'll tell you what, this happens to Native people, too,  
32 because they can be in the city and they think that they're  
33 going to be able to go home and hunt or fish or whatever, and  
34 what if the politics aren't just right for them? What if,  
35 who's ever in power at that point in the village decides, no,  
36 you don't get to do this. Your brother, he offended me or  
37 something like that. It gets pretty petty sometimes. It  
38 shouldn't be like that because this is a God given right.

39 //

40 I used to work for the North Slope Borough, I used to  
41 work in Washington, D.C. And I was down there when the  
42 Conference Committee Report had just been written. And I was  
43 working with Charlie Edwardson, Jr., (ph) his name was Ettook  
44 and I was his legislative assistant, for Ebin Hobson who was  
45 the Mayor of North Slope Borough at that time. And I was there  
46 in those meetings when they crafted the language of rural. I  
47 was there with the Sierra Club people and the Alaska Federation  
48 of Native people, and I saw these actions. I think Don Johnson  
49 had it down really good, the man who testified here before me.  
50 This is language that has unconstitutional intent. It was

00039

1 never very well tested in terms of its theory. The political  
2 philosophy behind it is terribly flawed and I think it will  
3 fail. I think that all of you people will have to go away and  
4 try to do something else. You talk about Federal Indian Law,  
5 and yeah, it's real, but so is constitutional law and so is our  
6 Statehood Compact. And I think we're going to have to see who  
7 wins in court.

8 //

9 In the meantime, here on the Kenai Peninsula, I was  
10 here when they had the Federal Regional Subsistence Board  
11 hearings back in '95, I guess it was. And overwhelming  
12 opposition to the whole thing, everywhere they went, from  
13 Homer, Ninilchik, Kenai, same story. As far as I know this  
14 Board is not even, like Mr. Palmer said, it's not anywhere near  
15 as democratic since, I think the tribal groups get to nominate  
16 four out of seven positions or something. I mean it doesn't  
17 represent us. It just -- it goes against American tradition  
18 totally. And I think what we're going to have to talk about  
19 here when we talk about subsistence, we're going to have to  
20 talk about welfare. Because if you want to take a bunch of  
21 people who live out in the bush, who are on welfare of one  
22 nature or another; I mean, they're getting school lunches or  
23 they're getting food stamps, or they're getting subsidized  
24 right, left and center, and I'm not saying they're all Native  
25 or they're all anything else, I'm just saying, all these people  
26 -- but a lot of them get special benefits because they are  
27 Native, too, and they also want to get priority fish and game  
28 use. And they're willing to displace a lot of the working  
29 people who have created the small businesses and who have built  
30 in the infrastructure here in Alaska, brought this together,  
31 because of their -- basically it's selfishness. Because really  
32 there's all kinds of opportunity out there to access fish and  
33 game. The only thing I ever really heard about where anybody  
34 had any trouble getting a hold of enough fish to eat or  
35 something to eat was back in the -- I think it was the '60s,  
36 and you had the duck in up north, you know, when Fish and  
37 Wildlife Service busted somebody for hunting ducks when they  
38 figured it wasn't the right season. Well, that happened. I've  
39 spent 10 years steady going to Fish and Game Board meetings and  
40 I saw the Board bending over backwards to try to make access,  
41 particularly out in the villages and so forth very easy for  
42 people to get their food needs met. And we see a lot of food  
43 being shipped out and there's people coming in and they're  
44 filling up their grocery carts and they're taking the food  
45 back. What Congress was sold was an image of grandmother way  
46 up river at fish camp with not a store within 400 or 500 miles,  
47 and there's just not that many grandmas that sit on the  
48 riverbank like that. The reality is quite a different story.

49 //

50 We shouldn't lose our 14th Amendment Equal Protection

00040

1 rights under the Federal Constitution, and we shouldn't lose  
2 our Equal Protection Right and mess up the common use clause of  
3 the natural resource management in the state. We've also got a  
4 lot of other issues that are very, very deep, having to do with  
5 navigable waters that are all tangled up with this.

6 //

7 I think that I'm really hurt sometimes by the  
8 selfishness and greed, you know, anytime you see it, it always  
9 hurts. And there's some people, I think, that have been told  
10 that they're special because of their race, you know, and I  
11 think everybody feels kind of special because of their race. I  
12 mean I think the Swedes feel kind of special and the Italians  
13 feel kind of special. I think that's great. Everybody should  
14 feel a little special about their race, you know, that's  
15 wonderful. But that doesn't mean that you go out and you use  
16 the equal protection and the equal rights under the law to  
17 manipulate the situation to punish and harm your neighbors.

18 //

19 And what the subsistence rural priority will do is it  
20 will put the working people on welfare at a time when we're  
21 trying to cut the welfare. Because they're not going to have  
22 the economic foundation that's built on the natural resources.  
23 It's a real big part of our economy here. And another thing is  
24 that I think that anybody that really wants a subsistence  
25 lifestyle can legally access that because in the Kenaitze case,  
26 it's very clear that you can have subsistence use areas and  
27 non-subsistence use areas. And there are areas of the state  
28 that their primary economic -- you know, one of their primary  
29 along with limited employment and so forth is subsistence and  
30 that's totally appropriate in those areas, to have subsistence  
31 priority. But the Kenai Peninsula is not like that.

32 //

33 Here, this economy it runs on money. And you start  
34 destroying people's businesses and they can't make their house  
35 payment and they have to leave or they have to humiliate  
36 themselves to go on welfare because it goes against their grain  
37 so much because of something that's essentially a  
38 discrimination issue based on zip code or residence. And I can  
39 tell you that most Americans I know are never going to go for  
40 that. It will never sit well. And it will create conflict and  
41 it will create violence and it could create real hardship. And  
42 you know, I love Alaska, and I love the peace we've had up  
43 here. I love the fact that we've lived up here, we've been  
44 able to negotiate and keep good relations. Yeah, we've had a  
45 few problems but compared to the rest of the world, I think  
46 this is the best state -- well, I think that Kenai is the best  
47 place on the best state and in the best country. And I don't  
48 want to see it get messed up like that.

49 //

50 So I guess that's all I have to say, thank you.



00041

1 HEARING OFFICER KNAUER: Thank you. At this point, I  
2 have no other slips here from people that wish to testify. I  
3 will ask, are there any other people that have not yet had a  
4 chance to testify that wish to do so?

5 //

6 MR. HILL: My name is Richard Hill. And I've been a  
7 resident of this great state of Alaska since the early '70s. I  
8 live here in Soldotna. And my testimony right off the bat, you  
9 know, I do oppose the consideration of whether or not the Kenai  
10 Peninsula is rural versus urban. I do not believe that we  
11 should be considering this out-of-cycle. I also do not believe  
12 that there are any special circumstances for this  
13 consideration.

14 //

15 I could probably go on as some of my friends can tell  
16 you. I could tell you fish stories and hunting stories, berry  
17 picking and clamming forever. We could spend the rest of the  
18 night. I've been doing fishing since I was five years old and  
19 hunting since I've been 10 and berry picking and clamming. You  
20 know, that's pretty much what most of us are, is  
21 hunter/gatherers, especially people who live in Alaska.

22 //

23 I have real difficulty envisioning an area such as the  
24 Kenai Peninsula with Kenai/Soldotna/Sterling/Ninilchik, Homer  
25 and Seward as being anything but urban. We have five lane  
26 roadways, we have more of them coming. Schools with full-time  
27 staffing. We have one of the largest K-Marts in the U.S., or  
28 at least it was when it was built. It became second largest  
29 when they built the one in Anchorage. We have Fred Meyers,  
30 Safeway, McDonalds, Burger King. We've got stores with  
31 elevators and sprinklers. This is not the definition that you  
32 would normally think of some place that is rural. We are  
33 growing faster. I don't believe that if we -- even if you did  
34 turn around and label this area rural, that by the time it took  
35 effect you'd find that there'd be less of an argument for  
36 making it -- keeping it rural. In other words, we're growing  
37 too fast and there's no indication that this is going to stop  
38 in this area. The first time I saw Soldotna in '74, all I  
39 remember is a little store and a couple gas stations. And we  
40 could decorate the walls with the number of big businesses and  
41 chains that have come in.

42 //

43 I don't -- I had to chuckle, I don't buy the equation  
44 that wells and septic systems equate to rural. If so, come to  
45 Washington, if any of you have ever been there, we'd be  
46 classified as rural because that's what my family grew up with  
47 and they still have and we're inside the city. So I mean  
48 that's -- it's part of, you know, it has nothing to do with  
49 whether you're rural or urban. I do feel that the river and  
50 the inland fishermen to include sport fishermen and commercial

00042

1 fishermen, I do believe that they would be effected adversely  
2 by going to the subsistence -- or making the entire Kenai  
3 Peninsula a rural setting. I just can't see how it wouldn't.  
4 //

5 And I do believe that there's plenty of opportunity for  
6 hunters, anybody. I am an avid hunter and whether, you know,  
7 you take part in the subsistence hunts that they have now or  
8 the regular State hunts, I think they're doing a good job on  
9 that part. Fisheries, you know, we all have our beefs one way  
10 or another. But I really don't think we need another layer of  
11 bureaucracy or rules and regulations. I believe this will just  
12 complicate it and make things worse.

13 //

14 But just to reiterate, I do not believe it needs to be  
15 taken out-of-cycle. Let the cycle go around and you can  
16 reconsider it at that time. And I don't believe that there are  
17 any special circumstances. Thank you for your time.

18 //

19 HEARING OFFICER KNAUER: Thank you, sir. Mr. Joe  
20 Rybak.

21 //

22 MR. RYBAK: Hi. My name's Joe Rybak and I'm a resident  
23 of Soldotna, Alaska. And I do not believe that there is any  
24 special circumstances to require this meeting. I think you  
25 people have overstepped your bounds in this matter.

26 //

27 I also do not believe that we should be changing the  
28 designation of any of these nonrural areas to rural. I think  
29 it would have a tremendous economic effect on the Kenai  
30 Peninsula and the residents.

31 //

32 And other than that, some of the definitions -- we're  
33 having a hard time defining rural, we're having a hard time  
34 defining what is customary and traditional. I don't have any  
35 problem with anybody maintaining their customary and  
36 traditional means and passing it on to their generations below  
37 them. But I'm wondering just who's tradition the Kenaitze  
38 Indians really want to pass on. When we get to the thing here  
39 where they're gillnetting in the Kenai River, they're out there  
40 with a monofillim (ph) gillnet, aluminum boat and an Evinrude  
41 motor; now, who's tradition is that? I really have a hard time  
42 with that. Now, if they want to go out there with a stick with  
43 a stone tied on it, they want to use a birch bark canoe, that's  
44 fine, that's tradition, and they can do that. But what they're  
45 proposing here is not a tradition, they're actually proposing  
46 what the White man's tradition is.

47 //

48 Paul Harvey, I don't know, about two weeks ago made a  
49 comment and I don't know why he really brought it up but  
50 evidently this customary and tradition thing has been brought

00043

1 up in other areas. But he says, are we really sure we want all  
2 these traditions. He says, you know, the White man's tradition  
3 is to have slaves and slaughter the Natives in any country that  
4 they came and took over. Now, do you really want tradition?  
5 And it's -- I don't propose that we have slaves, but just think  
6 about it. We have to move on. Nobody here can traditionally  
7 do what their ancestors did. And when you really get right  
8 down to it, there isn't anybody here that has an ancestor that  
9 did not subsistence hunt and fish. We all did that. It may  
10 not have been on the Kenai Peninsula, but somewhere on this  
11 round globe called Earth, all of our ancestors traditionally  
12 gathered and hunted. Why should we give rights now to a  
13 certain group of people to do that over the rest of us. That's  
14 discrimination.

15 //

16 Thank you.

17 //

18 HEARING OFFICER KNAUER: Thank you, sir. Mr. Mel  
19 Krogseng. Oh, I'm sorry.

20 //

21 MS. KROGSENG: That's a common error, sir, no problem.  
22 Mr. Chairman, my name is Mel Krogseng, I'm a resident of the  
23 Kenai Peninsula. I also am the president of an organization  
24 known as the Alaska Sportfish Recovery Association which is  
25 comprised of some 150 plus members. ASRA is on record as being  
26 opposed to a subsistence preference -- a rural preference for  
27 subsistence and I would like to put that on the record here,  
28 whether it be on the Kenai Peninsula or elsewhere.

29 //

30 I guess I would like to associate my comments and I  
31 will try to keep them brief with those of Messrs Bogard, Lewis,  
32 Palmer and others who have spoken in opposition to the  
33 designation of the Kenai Peninsula as a rural area. We are a  
34 cash based economy. I think that's very obvious. I think that  
35 this proposal, if it were adopted, would disenfranchise a large  
36 part of the Native community, the largest Native village in  
37 Alaska actually, which is in Anchorage. That's been previously  
38 stated. And I guess I'd just like to bring to your attention,  
39 amongst the many other examples that have been put to you as to  
40 why the Kenai Peninsula is not a rural area is one that we are  
41 the alternate, Kenai Airport, we are the alternate for  
42 Anchorage International Airport. We can land big jets in  
43 Kenai. How in the world can you call that area rural, when the  
44 entire world is at our fingertips? It is a crossroads. We're  
45 vying right now to even enlarge the airport to handle much  
46 larger aircraft. And I realize that Ninilchik is down the road  
47 a little ways, but it's not a very far drive. People do it on  
48 a daily basis. They commute back and forth. This is not a  
49 rural area. It's somewhat in the country maybe but it's  
50 connected by roads. We have grocery stores and all the other

00044

1 things you have in Anchorage.

2 //

3 So unless we're going to make the entire state rural,  
4 we're opposed to it. Thank you.

5 //

6 HEARING OFFICER KNAUER: Thank you, ma'am, and I  
7 apologize. I would remind everyone that you can still submit  
8 comments in writing by using the forms in the back or just  
9 sending them to the address shown at the front; the  
10 Southcentral Regional Council, in care of U.S. Fish and  
11 Wildlife Service, 10011 East Tudor Road, Anchorage, Alaska  
12 99503, or by submitting them by electronic mail to  
13 ASM@mail.fws.gov. All comments do need to be received no later  
14 than December 10th. I don't have a form from you, sir, but if  
15 you will please give us your name, the spelling of it and your  
16 address.

17 //

18 MR. NORVILLE: I had to leave earlier, I was in. My  
19 name is Alan Norville. I am chairman of Kenai River  
20 Sportfishing and I have a letter of official position of the  
21 board of Kenai River Sportfishing, if I may, I'd like to read  
22 it.

23 //

24 Gentlemen, Kenai River Sportfishing appreciates the  
25 opportunity to provide comments to the Regional Council on the  
26 proposal to designate the entire Kenai Peninsula rural for the  
27 purpose of implementing the Federal subsistence priority  
28 mandated in ANILCA. We would like to make it perfectly clear  
29 that we are opposed to this proposal. It is our position that  
30 the major road accessibility communities such as those found on  
31 the Kenai Peninsula should never be considered rural for the  
32 purpose of ANILCA. Soldotna, Kenai, Homer and Seward are  
33 unquestionably urban centers. The economy in these communities  
34 consist primarily of tourism, commercial fishing and other  
35 resource dependent businesses. People in these communities  
36 depend on flexibility and diverse use of our natural resources.  
37 It is hard to imagine the complications and loss of economic  
38 opportunity that would face the communities of the Kenai  
39 Peninsula as a consequence of the Federal Subsistence Board  
40 finding the entire area rural. It is not hard to imagine that  
41 the decisiveness that would occur as discriminatory hunting and  
42 fishing regulations are adopted by the Federal Subsistence  
43 Board in an attempt to provide for a subsistence priority to  
44 the residents of the Kenai Peninsula. Please reject this  
45 divisive proposal. Sincerely, Alan J. Norville, Chair.

46 //

47 I present this to the Board.

48

49 And if I may, I was here earlier and everyone has been  
50 sitting, can we all stretch for a little bit, Mr. Chairman?

00045

1 Just stand back and wake up a little bit. Everybody's been  
2 sitting for a long time.

3 //

4 HEARING OFFICER KNAUER: Sure.

5 //

6 MR. NORVILLE: Okay. I would like to change hats now.  
7 I am Alan Norville. I am president of Financial Associates. A  
8 development company that has developed properties here in  
9 Alaska and Arizona. I have president for 30 years. I am the  
10 developer and owner of the Carrs Kenai Center. That comprises  
11 a 70,000 square foot Carrs store and 150,000 foot K-Mart store.  
12 There's an investment of approximately 18 million dollars in  
13 that facility. I have been developing properties for 30 years  
14 and I do not, do not go into rural communities.

15 //

16 I go into established communities with a tax base, with  
17 an economy that is healthy and those are the -- the  
18 demographics are extremely important where I put my  
19 developments. I currently am contemplating an additional four  
20 million dollar investment and this proposal that is before this  
21 Board could seriously jeopardize that investment.

22 //

23 Before I make an investment in a community, I look at  
24 the economic base and here we have commercial fisheries, we  
25 have sport fisheries, we have tourism that is an intricate part  
26 of this economy. This proposal will not only effect those  
27 industries, it will effect every resident of this community  
28 because it will effect the tax base. If you effect the economy  
29 it effects the whole area and there's a trickle down effect.  
30 If you look at the development that we have, the tax base, the  
31 sales tax, the property taxes, support police, fire and all the  
32 other intricate things that are a part of this community and  
33 are important to everyone -- and if you effect it by making  
34 this change, it will drastically change the complex economic  
35 issues of the Peninsula.

36 //

37 If you look at the infrastructure in Kenai, in  
38 Soldotna, on the Peninsula, water, sewer, gas. These are all  
39 things typically are not found in a rural community. And  
40 believe me, I would have never invested the money that I  
41 invested in a community that didn't have the infrastructure,  
42 the road structure to support the economic base.

43 //

44 I didn't participate in all of the people that offered  
45 comments, but earlier when I was here before I left for my  
46 other meeting, there was talk of a lawsuit; hopefully it won't  
47 come to that. It's terrible to get into a fight with the  
48 government, no one wins but the attorneys. But clearly here, I  
49 feel, and I feel very strongly, with the infrastructure that we  
50 have in place, that clearly this is not a rural area. And

00046

1 generally when I determine rural, we use the word urban and for  
2 whatever reason they use non-rural, but it's rural/urban. And  
3 this is an urban community, it truly is.  
4 //

5 So I would hope you take into consideration the  
6 economic base and the effect that you will have on this  
7 community. I heard a few people mention, employment and  
8 everything else, that is a serious, serious threat. And you  
9 have to look at the well being of all the people. So search  
10 your conscious for what is right for the community and please  
11 make your decision based on that. And if you do, I feel you'll  
12 find that this is an urban community.

13 //

14 Thank you.

15 //

16 HEARING OFFICER KNAUER: Thank you, sir. Fred, I'll  
17 turn it back to you.

18 //

19 MR. JOHN: Okay, if there's no more testimony, at this  
20 time I'd just like to thank everyone for coming here. And I'll  
21 take this opportunity to thank all those who testified and  
22 those who submit comments and those who have attended the  
23 meeting tonight. Thank you very much for coming. I would also  
24 like to thank the Subsistence Staff who help the Regional  
25 Council.

26 //

27 The Regional Council will meet in Anchorage on March 23  
28 and 24th, 1999. It will develop a recommendation to the Board,  
29 specifically, it will decide, after reviewing public comment  
30 whether or not recommend that the Board reconsider the Kenai  
31 Peninsula rural/nonrural determination. The meeting will be  
32 open to the public and the meeting place will be advertised  
33 well before the meeting. You may submit written comments, the  
34 address is on the hearing table over there.

35 //

36 Again, thank you one and all for spending the evening  
37 with us and for your participation. And with that, I will  
38 close the meeting. Thank you.

39 //

40 (END OF PROCEEDINGS)

41 //

42

\* \* \* \* \*

C E R T I F I C A T E

UNITED STATES OF AMERICA )

) ss.

STATE OF ALASKA )

I, Salena A. Hile, Notary Public in and for the State of Alaska and Reporter for R&R Court Reporters, Inc., do hereby certify:

THAT the foregoing pages numbered 02 through 46 contain a full, true and correct Transcript of the Southcentral Regional Advisory Council Public Hearing Re: Kenai Peninsula Rural/Nonrural Determination Issue taken electronically by me on the 13th day of November 1998, beginning at the hour of 6:00 o'clock p.m. at the Cook Inlet Aquaculture Building, Kenai, Alaska;

THAT the transcript is a true and correct transcript and thereafter transcribed by me to the best of my knowledge and ability;

THAT I am not an employee, attorney, or party interested in any way in this action.

DATED at Anchorage, Alaska, this 18th day of November 1998.

\_\_\_\_\_  
Notary Public in and for Alaska  
My Commission Expires: 9/5/02